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No. 97-___

In The

Supreme Court of The United States

1 First Street, N.E.

Washington, DC 20543

October Term, 1996

Yavarace Young, M.D.

Petitioner

-VS-

1. State of Illinois
2. Illinois Department of Professional Regulation
3. Illinois Medical Disciplinary Board
4. Nikki M. Zollar, Director of Illinois Department of Professional Regulation
5. William B. Shlifka, Chief of Medical Investigations
6. Robert J. Schafer, M.D. Medical Coordinator
7. Steven Wagy, Investigator
8. Dave Walker, Illinois State Police

Respondents

On Petition For Writ Of Certiorari
To The United States Court Of Appeals For The Seventh Circuit

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243 pp

QUESTIONS PRESENTED

1. Was intentionally discriminatory practice on the part of State of Illinois et al that violated petitioner's the Fourteenth Amendment rights, and Federal constitutional rights a claim for relief?

2. Does the Eleventh Amendment bar lawsuit against State of Illinois et al and its officials who violated petitioner's fundamental rights under the provisions of the Fourteenth Amendment and federal constitutional rights?

3. Does the Fourteenth Amendment of U.S. Constitution protect a petitioner whose fundamental rights have been violated, and has been deprived of property and livelihood as a result of racial and gender discrimination on the part of State of Illinois et al and its officials?

4. Are State of Illinois, IDPR, Medical Disciplinary Board and the individual defendants "persons" in the meaning of 42 U.S.C.A. § 1983?

5. Did Administrative Hearing Process in IDPR and Illinois Medical Disciplinary Board violate "due process" clause of the Fourteenth Amendment and "Separartion of Powers Doctrine"?

6. Did State of Illinois et al intentionally apply and administer provision of Medical Practice Act 1987, 225 ILCS 60/22(A) (38) in discriminatory fashion?

7. Did the District Court's denial granting of protective injunctive relief represent a clear error of judgment?

8. Did a review by the Seventh Circuit to determine whether the District Court "has abused its discretion" sufficient to its delivery of "Justice"?

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The opinions of the district Court are reported, and are reprinted in the Appendix at 7 to 27. The opinion of the Seventh Circuit is unpublished and is reprinted in the Appendix at 1.

JURISDICTION

The Seventh Circuit issued its unpublished opinion and order entered dated April 7,1997 and judgment without oral argument entered dated April 8,1997. The Seventh Circuit order dated June 5,1996. The District Court orders dated December 6,1995, February 5,1996, March 22,1996, April 1,1996 and judgment entered dated April 2,1996. The constitutional and statutory provisions conferred on this court jurisdiction for review are described below. This petition is timely filed within 90 (ninety) days of that date. This court has jurisdiction pursuant to 28 U.S.C.A. § 1331.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED:

These questions concern damages to petitioner as a result of racial and gender intentionally discriminatory practices on the part of State of Illinois et al (they); the Eleventh Amendment; the Fourteenth Amendment of the United States Constitution; 42 U.S.C.A.§1981, 42 U.S.C.A. § 1983, 42 U.S.C.A.§ 1985; Human Rights Act of Illinois Contitution 775 ILCS 5/1 102 (A)(F)(G); 225 ILCS 60/22(A)(38) of Medical Practice Act of 1987; Administrative process in Illinois Department of Professional Regulation (IDPR); and Title VII of the Civil Rights Acts of 1964. These constitutional and statutory provisions are printed in the Appendix at 41 to 43.

STATEMENT OF CASE

State of Illinois et al are fully aware that I am a female, Asian-American physician and a graduate of foreign medical school practicing at 2801 Brown Street, Alton, Illinois 62002. State of Illinois et al and State officials intentionally worked in concerted efforts in discrimination against me because of me being a female of racial minority. They had used discriminatory tools/devices in their intentionally discriminatory practices against me, i.e. random investigation, investigation of potential violation, investigation with no ground and collection of medical records etc. They placed me in "suspect" class and targeted me for "Random investigation." They violated my constitutional rights under protection of the Fourteenth Amendment, 42 U.S.C.A.§1981, 42 U.S.C.A. § 1983, 42 U.S.C.A.§ 1985, Human Rights Act of Illinois Contitution under 775 ILCS 5/1 102 (A) (F) (G) and 225 ILCS 60/10 (B).

Violation of the Fourteenth Amendment was raised at Appendix 55,58,63,65,74,98,99,105,114,120,148, and 150. Violation of 42 U.S.C.A.§1981, 42 U.S.C.A. § 1983, 42 U.S.C.A.§ 1985 was raised at Appendix 55,56, 98,105 and 120. Violation of Human Rights Act of Illinois Contitution under 775 ILCS 5/1 102 (A) (F) (G) and 225 ILCS 60/10 (B) was raised at Appendix 57,58,100,105 and 120. The claim, monetary and protective injunctive relief, discovery, and jury trial were requested in original complaint, First Amended Complaint, and my brief (Appendix 50,69,123,127). Title VII of the Civil Rights Acts of 1964 prohibits against employment discrimination. This provision was first raised (Appendix at 57, 58,120). The request for discovery was made to the district court to identify individuals who worked in concert with State of Illinois et al (Appendix 69).

On February 15,1994, I was visited by two individuals who represented themselves to be officials of State of Illinois. These two individuals (they) came to my office during the office hours without prior notification. They did not properly identify themselves. I was not confident that they were genuine officers. I was shock and stunned by their visit. To the best of my knowledge, I have not done anything wrong or made any offense. I inquired these two individuals as to the purpose of their visit and whether there was any complaint or allegation against me. These two individuals answered me that there was no complaint or any allegation against me, and further stated that they simply conducted "Random Investigation to identify fraud and abuse in Medical System." They verbally requested several of my patient records and the billing records. In general, these two individuals appeared very suspicious. Their actions were inconsistent with normal practice for acquiring medical information. They did not notify me in advance of their visits and I received no formal correspondence regarding their requests. Following an incident on February 15,1994, I made a complaint to their superiors including Ms. Nikki M. Zollar, director of IDPR (Appendix 210); Mr. Roland W. Burris, former Illinois State Attorney General (Appendix 212); and Governor Jim Edgar (Appendix 214) to inquire about the identities, conducts of these two individuals in question and the reason, justification for their conducts.

While waiting for the response from Ms. Nikki M. Zollar, these two individuals in question came to my office again with various requests, threats and intimidation on February 25,1994. As in the previous visit, I received no prior notification. This of course was very disruptive to my medical practice (Appendix 218). State of Illinois et al did not act in good faith. They intentionally engaged in the concerted efforts to discriminate against me because of my race and gender. These two individuals chose to discuss about me with my patients without my knowledge. I was later informed by several of my patients that the two individuals who represented State of Illinois officials went to their homes without prior notification. These two individuals went to see my patients from home to home, telling my patients that I have been under investigation. These two individuals also discussed with my patients in an effort to acquire information on my competency. Apparently, they acted under the veil of secrecy but lack of confidentiality and in their official capacity they have adopted "Gestapo type of activity" in their practice (Appendix 210,212, 214).

About two weeks after my inquiry to Ms. Nikki M. Zollar, these two individuals in question were identified by a letter of Mr. William B. Shlifka who was Chief of Medical Investigation of IDPR.(Appendix 221). In Mr. William B. Shlifka's letter dated March 4,1994, one individual was identified as being Mr. Dave Walker, Illinois State Police and another being Steven Wagy, Investigator, but IDPR and Mr. William B. Shlifka did not provide me with any information to justify the actions and conducts of these two individuals. In my letter of March 1,1994, addressed to Ms. Nikki M. Zollar, I requested several informations including any allegation or complaint against me. However as of this date, she and IDPR have failed to provide me the requested information. (Appendix 218).

On March 10,1994, Dr. Robert J. Schafer, Medical Co-ordinator sent me a letter, requested me to release medical records of several of my patients (Appendix 223). His letter was received in my office on March14,1994. With my good faith, I subsequently sent them the medical records to the best of my ability on March 22,1994 (Appendix 224). My notification of sending the medical records via Express mail with proof of receipt is printed (Appendix 225). In his letter dated March 10,1994, the medical records were requested pursuant to Section 22(A) (38) of Medical Practice Act of 1987. The specific reason for their request was not given despite several of my requests for their actions. My serious concern was the possibility of fabrication and/or manufacturing of any evidence to justify their wrongdoings in the first place. I did not hear any thing from them at all until approximately 17 months later.

On August 7,1995, I received a notice of informal conference from Mr. David K. Igasaki, attorney and employee of IDPR, requested me to attend an informal conference on August 30,1995 at IDPR office in Springfield. The purpose was identified as a meeting to discuss

> "Brief Statement of Alleged Violation: On or about February 25,1994, respondent refused to furnish medical records lawfully requested by investigators of the Illinois Department of Professional Regulation."(Appendix 180)

IDPR had falsified the fact and made the wrong allegation that I did not send them the requested medical records. On August 28,1995, I wrote a letter to Mr. David K. Igasaki explaining him that the requested medical records were sent to the best of my ability on March 22,1994 (Appendix 182). On August 29,1995, I filed racial and gender discrimination lawsuit against State of Illinois et al with the US District Court for Southern District of Illinois (Appendix 44). Prior to the filing of this lawsuit, I received four correspondences from IDPR: a letter from Nikki M. Zollar dated February 24,1994, (Appendix 217); a letter of William B. Shlifka dated March 4,1994, (Appendix 221); a letter of Dr. Robert J. Schafer dated March 10,1994 (Appendix 223); and a notice of informal conference from Mr. David K. Igasaki dated August 4,1995 (Appendix 180). None of these correspondences explained any reason for their action and conduct. In addition to these four correspondences, I received a letter of Mr. Roland W. Burris, dated April 14,1994 (Appendix 228); and a letter dated April 18,1994 from Mr. Richard G. Agin who was a legal counsel on behalf of Governor Jim Edgar (Appendix 229). These two letters did not provide me any cause of the conduct of investigation on the part of State of Illinois et al and its officials.

The medical records were requested pursuant to Section 22(A) (38) of Medical Practice Act of 1987. There was no specific reason/cause for the request of medical records. Relevant information in 225 ILCS 60/22(A)(38) of the Medical Practice Act 1987 has becomes a subjective term in this instance as there was no charge against me, and no allegation against me prior to their initiation of investigation and prior to their request for the medical records. This provision of Illinois Statute appears to be neutral and fair on its face, however it was intentionally applied, and administered in a discriminatory fashion against me by State of Illinois et al. This question of law was raised at Appendix 64,67,94,105,108,120,133 and 143, but has been ignored by the lower courts.

During the pendency of the federal court proceedings, State of Illinois et al and its officials circumvented the authority of the federal court and began exploiting administrative system in discrimination and retaliation. They sent a request for a hearing at IDPR office and request for preliminary hearing before the Administrative law judge with a false allegation that I did not send them the medical records. They threatened to sanction, suspend and / or revoke my medical license if I did not comply with their request. They totally disregarded my request to postpone the hearing in IDPR office until the final decision of the federal court (Appendix 194, 205). A hearing at IDPR office was actually a ritual event to take my medical license away and served to deceptively portray as the due process of law. However, it is not the due process in the concept of the U.S. Constitution. The question about deceptive due process in IDPR's

Administrative system was raised since the first filing of this lawsuit (Appendix 49, 68, 95,110 and 143). In addition, the fundamental fairness in constitutional concept requires the separated powers doctrine. Power is typically separated into 3 (three) branches: legislative, executive and judiciary which is totally different from administrative organization and structure in IDPR. The administrative organization in IDPR reveals that Investigative, Prosecuting and Judiciary functions are all performed by IDPR (Appendix 96, 111, and 144). The activities in closed door caucuses are clearly seen in the documents relating to IDPR's Administrative hearing process (Appendix 180-209).

State of Illinois et al did not deny my allegations in the lawsuit but moved the district court to dismiss lawsuit claiming the Eleventh Amendment immunity, and failure to state a claim for relief. I filed a motion with memorandum to quash defendants' motion to dismiss, arguing these notions (Appendix 52). On December 6,1995, the District Court dismissed the case for failure to state a claim for relief and allowed me to amend my complaint within 30 days (Appendix 21). Upon my request for an extension of time to file my First Amended Complaint, the court granted me to file it on or before February 6,1996. December 6,1995, court order stated

> "In ruling on a motion to dismiss a complaint for failure to state a claim, the district court takes as true all facts alleged plus the reasonable inferences therefrom and determines whether--under those assumption-- the plaintiff would have a right to legal relief."

Apparently, the district court took my complaint as true all fact alleged but denied the existent of the claim for relief. The District Court also described in footnote 2 of December 6,1995 order

> "Plaintiff's October 23,1995 memorandum in support of motion to quash (Doc.8) suggests several *potential* sources for her claims, but she has not moved to amend her complaint to include any of these statutes or laws."

This court statement is obviously contradict to the statement on the top of the very same page of this document which stated

> "Complaints need not identify the precise statute upon which the claim is based, and the plaintiff need not plead every factual allegation necessary to prevail."

The fact is several potential sources for my claims were added in my First Amended Complaint according to the recommendation of the court. However, the District Court dismissed my First Amended Complaint for the very same reason that it was a failure to state a claim for relief and state sovereign immunity of the Eleventh Amendment. In footnote 4 of December 6,1995 order, it stated

> "Plaintiff's memorandum (Doc.8) lists other possible bases for this action, but the Court's role is not to exhaustively analyze the potential bases for Plaintiff's lawsuit or to replead her complaint for her."

I filed my First Amended Complaint with the District Court on February 5,1996 and filed the addendum of the First Amended Complaint on February 6,1996. Racial and Gender Discrimination claim/complaint with discriminatory effect was stated very clearly in both original complaint and my First Amended Complaint. The following statement was added to my First Amended Complaint.

> "The plaintiff' s original complaint, and memorandum attached to motion to quash defendants' motion to dismiss are considered admitted when not denied by defendants in their responsive pleading. Therefore, these documents are retained as evidential facts, and plaintiff would like to add these documents as a part of this amended complaint."

After the District Court saw my First Amended Complaint, it entered an order on February 5, 1996 and stated

> "Plaintiff is admonished that -- contrary to the statements in her latest motion -- the Court does not have any prior documents

> 'properly' before it at this point, as her original complaint was dismissed on December 6, 1995. As the Court has stated in its prior Orders, Plaintiff must file a proper First Amended Complaint on or before February 6, 1996 or find her cause of action terminated."

The envelop of February 5,1996 order showed the postmark indicating the mailing date on February 6,1996. I received this order on February 7,1996 which was a day after the dead line for filing First Amended Complaint. Protective injunctive relief was requested since the first filing of original complaint on August 29,1995. A motion with memorandum for protective injunctive relief was again filed with the court on February 20,1996. The justification for granting protective injunctive relief was explained in my memorandum to quash defendants' motion to dismiss, first amended complaint, and my memorandum for protective injunctive relief (Appendix 59,69,77). State of Illinois did not deny allegations in my first amended complaint but again moved the court to dismiss lawsuit by mailing motion with memorandum to dismiss on February 28, 1996. They claimed the Eleventh Amendment immunity, failure to state claim for relief and that both State and its officials were not "persons" under 42 USCA §1983. On March 15,1996, I filed motion with memorandum to strike defendants' motion to dismiss. These questions of law were argued (Appendix at 100).

On March 21, 1996, the Deputy Clerk of the District Court phoned me to inform me that a hearing for injunction was scheduled to be held on March 28, 1996 at 10:15 am, and the hearing should last for one hour. Approximately 11:30 a.m. on March 27, 1996, I received the District Court order dated March 22, 1996, dismissed defendants number 1 to 7, dismissed First Amended Complaint, and all claims against defendants except injunctive relief. The dismissal was based on the Eleventh Amendment immunity, failure to state a claim for relief, and the notion that States and its agencies were not "persons" susceptible to suit under 42 USCA §1983 (Appendix 12). The District Court ruled that the Eleventh Amendment did not bar a citizen from seeking injunctive or declaratory relief against a state official. This order stated

> "Plaintiff should be prepared to present evidence and argument as to why she is entitled to the grant of a preliminary injunction against the state official Defendants."

According to local rule of motion practice of this District Court, there will be no oral arguments on motions in civil cases except by specific order of the judge to whom the motion is assigned. Apparently, the District Court order dated March 22, 1996 was mailed on March 26, 1996 as the postmark date appeared on the envelope. I received this order of March 22,1996 on March 27,1996. I did not have sufficient time to prepare for oral argument with this less than twenty four (24) hours of notice and my understanding was that my motion for protective injunctive relief was of no contest due to the fact that State of Illinois et al did not make any motion, or any statement of objection to my motion after the filing of my motion for protective injunctive relief on February 20, 1996.

The hearing and the proceeding on March 28, 1996 were prejudice. The District Court allowed State of Illinois et al to introduce surprised exhibitions and three surprised witnesses to testify. I made numerous objections but the court overruled all. Actually it was a process of taking the Exhibits of fabrication to be formally baptized by the District Court. The surprised exhibitions # 1, 2, and 3 have never been made available either to me or to District Court prior to the hearing on March 28, 1996 despite my repeated requests for the reasons of their random investigation since February16,1994. My concerns regarding the fabrication on the part of the State of Illinois et al became a reality on this hearing date. Obviously, they introduced the materials of fabrication in an attempt to justify their wrongdoings and intentionally discriminatory practices against me in the first place. It requires a discovery process and the proofs before these exhibitions be allowed as evidence in the court room during the hearing. The content of these 3 Exhibits are also fabricated (Appendix 167, 230), and can only be consumed by those who have invented them. Exhibit #1 is an undated letter which is a hearsay. It contains many lies. Its credibility is in question. Exhibit #2 shows that my license renewal fee has been paid. It does not mean that they have no knowledge of my identity as being a female, of oriental origin when they have an instant access to the complete physician profile of mine. Exhibit # 3 is called "Provider Analysis." This paper indicates that this data was accumulated from the date initiated on 3/31/93 to completed date on 5/26/93. It contains an analysis of the patients' office visits with procedure code 90020 and procedure code 90070. This paper indicates their genuine fabrication due to the fact that these procedure codes 90020 and 90070 have no longer been used since January of 1992. It has been deleted from the CPT code system of Medicare, Medicaid and all type of insurances since January, 1992 (Appendix 168, 232).There has been no order or document of request from Medicare or Illinois Deparment of Public Aid (Medicaid) for them to conduct investigation of my practice. I have never had any billing problem or been told about it. IDPR has no jurisdiction to perform investigation for Medicare or Medicaid. In addition, both Medicare and Illinois Medicaid have their own department and office of Inspector General with jurisdiction to conduct investigation. Medicare and Illinois Medicaid did not have any complaint or conducted investigation about me. The exhibit #4 was voluntarily withdrawn by them. The exhibits #5 to #13 were parts of documents relating to Administrative hearing in IDPR, and revealed the achievement in closed door caucuses. (Appendix 180-209). All documents including those in IDPR Administrative process contained the only one allegation against me which was a false allegation that I did not send them medical records (Appendix 29-39,180-209). The exhibit #14 was another surprised exhibition which I have never seen until this hearing date (Appendix 209). It was an order, signed by Ms. Shari Dam, Administrative Law Judge on March 11,1996. An order stated:

> "this matter be set for hearing on status on 5- 13,1996, at 1.00 p.m. at the Department office located-----for the purpose of ascertaining whether a final order has been entered."

State of Illinois et al introduced surprised Exhibit #14 to the court during the injunctive hearing on March 28,1996 just to deceive the court that my claim about IDPR's proceedings to take my license was without merit, and they had not yet suspended or revoked my license. On March 28,1996, the day that exhibit#14 was presented to the District Court during injunctive hearing, Shari Dam signed hearing officer's report and recommendation to Illinois Medical Disciplinary Board to indefinitely suspend my medical license (Appendix 32). Two out of three surprised witnesses were Mr. Steven Wagy, and Mr. Dave Walker who were the defendants in this lawsuit. Another witness was Mr. David K. Igasaki, an attorney and employee of IDPR. The hearing and proceedings were prejudice.

The District Court order dated April 1,1996, denied granting me injunctive relief, and dismissed defendant Dave Walker in addition to the first seven defendants that the court previously dismissed on March 22,1996. The judgment dated April 2,1996 stated "It is ordered and adjudged that this cause of action is hereby Dismissed with prejudice pursuant to an Order of this Court filed April 1,1996." The court decisions to deny protective injunctive relief and to dismiss the lawsuit, claims, and all defendants were wrong and with prejudice. The dismissal of the case was premature due to there was a lack of initial disclosure, reciprocal discovery, and jury trial.

I filed a notice of appeal on April 16,1996. On April 24,1996, I received a notice of Indefinite Suspension of my Illinois Medical License from Mr. David K. Igasaki, an attorney and employee of IDPR. The recommendation to suspend my Illinois Medical License was made by Shari Dam who was a hearing officer/ Administrative Law Judge/ and employee of IDPR, based on the false allegation that I did not send IDPR the requested medical records of my patients, as such they claimed that I violated Illinois Compiled Statutes (1992), 225 ILCS 60/22(A) (38). Immediate suspension of my Illinois Medical License based on the false allegation of medical record issue is prejudice, vindictive, abuse of power and outright discrimination. The most important fact is that I have not done anything wrong and yet they conspired to indefinitely suspend my medical license by using the administrative system in discrimination and retaliation.

On May 7,1996, I filed the motion with memorandum seeking the Seventh Circuit order to immediately vacate an order of IDPR to indefinitely suspend my Illinois Medical License. State of Illinois et al did not make motion in opposition to my motion. Unfortunately, the Seventh Circuit flatly denied my motion without explanation dated June 5,1996 (Appendix 6). The Seventh Circuit made an unpublished opinion entered dated April 7,1997, affirmed the District Court order, and once again denied vacating IDPR's order to suspend my Illinois medical license. There was no show as to what set of facts the Seventh Circuit relied on in making its decision. My conscience gives me courage and strength to stand up and fight for principle and justice in the court of law. I never have any intention to hurt anyone. I have experienced so much pain and suffering so that I do not wish anybody to suffer like me. The fact that I am permitted to communicate with the courts for seeking "Justice" is the true meaning of freedom to pursue "life, liberty and happiness."

ARGUMENT

1. Was intentionally discriminatory practice on the part of State of Illinois et al that violated petitioner's the Fourteenth Amendment rights, and Federal constitutional rights a claim for relief?

The district court took my complaint as true all fact alleged, dismissed all claims against all defendants and yet denied the existent of the claim for relief. The lower courts construed complaint as a claim under 42 U.S.C.A. § 1983 but dismissed this claim on the notion that State and its agencies were not "Persons" in the meaning of 42 U.S.C.A. § 1983. I would like to present this court with two components of the claim: (A) factual basis of the claim and (B) legal basis of the claim.

(A) Factual basis of the claim. My claim was based on actions and behaviors on the part of State of Illinois et al and its officials. The proof of intention is as difficult as the proof that every body else has mind since we can never observe mind of others. It would be a clear mistake to deny the existent of mind of others on the notion that we cannot observe mind of others. It is generally accepted that action is a manifestation of mind that we can observe. Actions serve as evidence of intention, and evidence of my claim. Actions are products of their own conscious choice. Certainly, no discriminators would admit of their discriminatory practices and the underlying intention because it is illegal and immoral. Perpetuating of discriminatory practices against me declares their intention. Their actions serve as evidences that verify their intention to discriminate, i.e., absence of justification; the use of discriminatory tools and discretionary administrative system; awareness of discrimination; administration of law or statute in discriminatory fashion; procedural and substantive departure; disproportionate impact; mixed motives (discriminatory and retaliation intents); and historical background.

Everyone must be mindful to the fact that there is no law and /or rules and/or statute of any kind that allow State of Illinois et al and its oficials to conduct "Random Investigation or Investigation with no ground, or investigation of potential violation."Investigation without the specific thing to look for is an indication of "fishing expedition" or "witch hunt." Random is defined in Webster's Collegiate Dictionary 1993 as 1 a: lacking a definite plan, purpose, or pattern b: made, done, or chosen at random 2. has equal probability of occurrence(~ sample). There was no rationale utilized in their selection of individuals to be investigated. A random investigation without predetermined criteria to obtain equal probability of occurrence is an indication of selective investigation. Therefore, Random Investigation by its definition represents discrimination. It was done without any reasonable basis and therefore was purely arbitrary and outright discrimination against me. Racial minority and female gender are the easy target for the discriminatory investigation.

According to Black's Law Dictionary, the word "potential" means existing in possibility but not in act, naturally and probably expected to come into existent at some future time, though not now existing. Potential violation by its definition represents discriminatory practices. There are no reliable predictive criteria that can be used to identify individual with potential violation in advance. No one in the world possesses the psychic power to know who will violate the law in advance. It is also an indication that they have placed me who is a female of racial minority in "suspect" class, considered me to be a "Potential Violator," therefore, subjected to Random Investigation.

State of Illinois et al and its officials have used the investigative procedure without a rational explanation, inexplicably departed from the established procedure. The procedure used was rested upon an impermissible basis that was in discrimination against me as a racial minority of female gender. Under our laws, it is illegal for State of Illinois et al to send the two individuals (Police and investigator) in their official capacity to random investigate me in my office and to collect medical records for "Random Investigation" without prior notification and without reason. They had adopted "Gestapo" type of activity by sending these two individuals to run around to several of my patients' homes without prior notification in an attempt to acquire information about my competency. These two individuals told my patients that I was under investigation. This of course undermined my reputation and credibility. Their activity was deceptive, unethical, unprofessional obviously departed from the standard procedure of medical investigation. They conducted investigation under the veil of secrecy but lack of confidentiality which was totally departed form standard investigation in its procedure and substance.

In pursue of discriminatory intent, State of Illinois et al administered Illinois Statute in discriminatory fashion by requesting the medical record pursuant to 225 ILCS 60/22(A) (38) of Medical Practice Act 1987. The fact is there was no charge or allegation against me prior to their request for medical records, and prior to their initiation of investigation. The skill, knowledge and the use of discriminatory tools indicated their intention and awareness to discriminate for they were capable of using the right tools to serve their goals. In this case, Random Investigation, Investigation with no ground, Investigation of Potential Violation, collecting of Medical records, and administrative hearing in closed door caucuses were their discriminatory tools that they used in order to harm me by all means, including indefinitely suspended my Illinois Medical License. Obviously, these tools are the modern version of the old Iron chain that they used to shackle me.

About two and a half months after my filing of lawsuit with the district court, State of Illinois et al and its officials began the ritual process by sending me request for a hearing in order to suspend my medical license. In discrimination and retaliation, State of Illinois et al its officials intentionally conspired to indefinitely suspend my medical license by using Administrative System. The hearing about the medical record issue in IDPR office was also served as "Smoke and Mirrors" to cover up the genuine issue of discrimination and their wrongdoings. The hearing in IDPR office was another discriminatory tool that they used to deceptively portray as a due process in order to suspend my Medical License.

One day after I filed a notice of appeal with the Court, they immediately ordered to indefinitely suspend my Illinois Medical License in discrimination and retaliation. This action was based on the false allegation that I did not send IDPR the requested medical records of my patients, as such she (Shari Dam) concluded that I violated Illinois Compiled Statutes (1992), Chapter 225, Act 60, Section 22A (38). I informed IDPR repeatedly that the requested medical records of my patients were sent to the best of my ability via express mail on March 22,1994. I have the return receipt showing the receipt date March 23,1994 (Appendix 225).

Furthermore, I repeatedly requested them to postpone the hearing status until the discrimination lawsuit was resolved by the court. If they did not discriminate against me, they should allow the legal process to proceed in an equitable manner in order to prove in the court of law. The most important thing is I have never make any offense. However, they falsified the fact about the medical records, and used the Administrative system to suspend my Medical License. The negative impact on me is completely out of the proportion of the allegation especially when I did not do any wrong or violate any of Illinois Statute or Law. The worst thing is that they falsified the fact, made the wrong allegation and proceeded to suspend my Illinois Medical License. They have deprived me of Medical License which is my property, and my livelihood. My life has been in miserable.

Moreover, in an attempt to cover up their wrong doings and discrimination, State of Illinois et al introdued surprised exhibitions and three suprised witnesses to testify and lie for their benefits. The exhibitions #1,#2 and #3 exhibit themselves to be genuine fabrication as I previously explained to the lower court. These fabrications appeared for the first time at the hearing date on March 28,1996 which was seven months after the first filing of lawsuit and twenty three months after the incident on February 16,1994. This is not a national security issue that requires State of Illinois et al to withhold the information for safety and security of our beloved country.

(B) Legal basis of the claim. The Fourteenth Amendment of the U.S.Constitution is one of the basis of my claim. "The privileges and immunities" clause of this amendment means that rights which owe their existence to U.S. citizenship- that is those which are entirely derived from this Constitution or Federal laws may not be abridged by the States by anyway. These rights include right to travel between States, right to vote, right to engage in interstate commerce, right to trial by jury, right to access to courts, right to be secure in your premises, right to be free from intrusion of State officials, and right to be free from random investigation, etc. State of Illinois et al and its officials violated my rights under this provision of the Fourteenth Amendment by sending a police and an investigator in their official capacities to random investigate me in my office and to collect medical records for random investigation without prior notification and without reason.

"Due process clause" of the Fourteenth Amendment means that it must be arbitrary in its subject matter and that it must be conducted in the fairness in its procedure. State of Illinois et al and its officials violated my right to "Due Process" when they conspired to conduct hearing among themselves in closed door caucuses in order to suspend my medical license. They have deprived me of my liberty, property and livelihood without due process. The hearing in IDPR was not a "Due process" in constitutional concept because it was not in conformity with "Separation of Powers Doctrine." They circumvented the authority of the federal court by conducting the hearing while this lawsuit was still pending. This indicated that they planned to make decision, judgment against me among their peers by using the administrative system and finally accomplished their job.

"Equal protection" clause is particularly designed to prevent and eliminate the State discriminatory actions against any person or group of people based on race, color, national origin or gender, etc. It is designed to protect any person or group of people from being singled out for hostile legislation or action by the State government. It also means that all persons in the same situation must be treated with a like by the State. State of Illinois et al singled me out for random investigation when there was no allegation or charge against me prior to their initiation of investigation which was a clear violation of my right under this provision when they did not conduct random investigation on any white male physicians. The object of the Fourteenth Amendment of the U.S. Constitution was undoubtedly to enforce the absolute equality of races before the law.

> "The equal protection clause was designed to impose upon the states a positive duty to supply protection to all persons in the enjoyment of their natural and inalienable rights--especially life, liberty, and property-- and to do so equally."[1]

The injunction that no state "shall deny any person within its jurisdiction the equal protection of the laws" might appear at first glance to be simply a demand for administrative fairness, the historically familiar assertion that all men must stand equal before the law, that justice must be blind to wealth or color, to rank or privilege. But early in its career, the equal protection clause received a formulation which strongly suggested that it was to be more than a demand for fair or equal enforcement of laws; it was to express the demand that the law itself be "equal."[2]

> "It cannot be doubt that among the civil rights intended to be protected from discriminatory state action by the Fourteenth Amendment are the rights to acquire, enjoy, own and dispose of property. Equality in the enjoyment of property rights was regarded by the framers of that Amendment as an essential pre-condition to the realization of other basic civil rights and liberties which the Amendment was intended to guarantee."[3]

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[1] Tussman and tenbroek, *the Equal Protection of the Laws*, 37 Calif. L. Rev. 341 (1949).

[2] *Id* at 342

[3] *Shelly v. Kraemer* (1948) 334 US 10

My Medical License is a legally invented property which is created by Illinois Statute. State of Illinois et al and its officials have deprived me of my medical license which is my property and livelihood when I have not done anything wrong. This is an indication of discrimination when they did not suspend medical licenses of any white male doctors for no reason. State of Illinois and its officials violated my rights of property and livelihood which are under the protection of the "Equal protection" clause of the Fourteenth Amendment. The real equality was so far stressed as to suggest identical treatment in medical profession. I should not be treated any different than any other white male doctors who are in the same position. When I have not made any offense, they should not treat me like those doctors who were charged with wrong doings.

> "The constitution does not require that things different in fact be treated in law as though they were the same. But it does require, in its concern for equality, that those who are similarly situated be similarly treated."[4]

They must come up with the answer to these questions: Have they ever ordered to indefinitely suspend medical license of any white male doctors with the allegation about not sending them medical records? Have they ever conducted random investigation on white male doctors? Have they ever requested medical records from white male doctors for randon investigation and pursuant to 225 ILCS 60/22 (A) (38)? If they did , how many? and how did it compare to female doctors and of racial minority? Unfortunately, the court did not allow initial disclosure, reciprocal discovery that would disclosed historical background of discriminatory practices in State of Illinois.

42 U.S.C.A.§1981 (a) provides "protection of equal rights under the law," (b) "To make and enforce contracts." and Title VII of the Civil Rights Act of 1964 prohibits against employment discrimination. Webster's Dictionary defines a word "contract" to mean "a binding agreement." I am not an employee per se, and I do not have a written contract on the paper. However, by Illinois Statute, IDPR is the only

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[4] Tussman and tenbroek, *the Equal Protection of the Laws*, 37 Calif. L. Rev. 344 (1949)

agency in Illinois authorized to issue medical licenses, and licenses to the many professions and occupations. I am automatically bound to the rule, regulation, and requirement of IDPR in order to obtain my medical license. Besides the fulfillment of medical qualification, I have to pay license registration fee, State DEA fee, and attend many medical meetings for continuing medical education. This can be perceived that contractual and employer-employee relationship existed. Without medical license, I am not permitted to practice medicine in the State of Illinois. Basically, my Illinois Medical License is a bondage between IDPR and me as a contractual and employer-employee relationship. Therefore, the proceeding of State of Illinois et al to indefinitely suspend my medical license in discrimination was in violation of my right under these provisions.

42 U.S.C.A §1983 provides civil action for deprivation of rights. State of Illinois et al and its officials under color of law have deprived me of my rights, freedom, property, Medical License and livelihood which are secured by constitution and law. Therefore, they shall be liable to my injury in an action at law, and suit in equity. The lower courts construed my complaint as a claim under 42 U.S.C.A. § 1983 but dismissed this claim on the notion that State and its agencies were not "Persons" in the meaning of 42 U.S.C.A. § 1983.
42 U.S.C.A §1985 (3) contains a provision to prohibit a conspiracy to deprive person of rights or privileges. With discrimination and retaliation intents, State of Illinois et al and its officials worked in conspiracy against me to the extreme extent of indefinitely suspend my medical license with a false allegation. Medical Practice Act of 1987, 225 ILCS 60/10 (B) prohibits discrimination against any physician because of national origin or geographic location of medical education. Illinois State Law under 775 ILCS 5/1-102 (A) (F) (G) prohibit discrimination in the internal affairs of State government and in their relations with the public. These provisions can be used as basis of my claim too.

2. Does the Eleventh Amendment bar lawsuit against State of Illinois et al and its officials who violated petitioner's fundamental rights under the provisions of the Fourteenth Amendment and federal constitutional rights?

I am always mindful that every one has the rights as a human being, but within the rights, there is duty and responsibility. Every one is held accountable for his/ her own actions and behaviors. No one can harm others without eventually hurt himself or herself. It is a false belief to assume that someone can get away with anything. There should not be an interpretation of any kind that there is a constitution that provides absolute protection for State and its officials from liability resulted from their wrongdoings, and discrimination. Immunity or protection can only be acquired through good practice that is in conformity with morality and rules of law.

The Eleventh Amendment of the U.S. Constitution was enacted in 1798 which was about seventy years before the enactment of the Fourteenth Amendment. With the knowledge of the Eleventh Amendment Immunity in their minds, any State and its officials can do just anything they choose, or use any means to accomplish their goals with no accountability. This does not sound right, especially in our most civilized and modernized country. The United States has become the world's leading model of the constitution and judiciary system for more than two hundred years. The government of the United States is the "government of laws, not of persons." Every one including State of Illinois et al and its officials must stand equal before the law. Therefore, there must be a constitution to cancel out the Eleventh Amendment immunity. This is why there was an enactment of the Fourteenth Amendment of the U.S. Constitution by congress in 1868 in order to protect person or group of persons against hostile, discriminatory actions or legislations of any State. It is very clear that the Fourteenth Amendment was intended to provide the individual citizen of the United States the equal protection against state action in the enjoyment of "life, liberty and property" for these conditions are the prerequisites of other basic civil rights. Illinois State is not a sovereign and independent nation. It is one of the states in U.S.A., therefore, it must operate under the U.S.Constitution which is the law of our nation. The Eleventh Amendment immunity cannot be used to bar a lawsuit against State of Illinois et al and its officials when they violated my rights under the protection of the Fourteenth Amendment of the U.S. Constitution, 42 U.S.C.A§1981, 42 U.S.C.A. § 1983, 42 U.S.C.A.§ 1985; Human Rights Act of

Illinois Contitution 775 ILCS 5/1 102 (A (F) (G). The absolute immunity cannot be applied for them no matter whether they conducted discriminatory practices in official capacities or not. The Eleventh Amendment was never intended, nor held, to grant the states the ability to subvert the supremacy clause by granting immunity to the states or their officials from judicial orders to comply with constitutional and federal laws.

3. Does the Fourteenth Amendment of U.S. Constitution protect a petitioner whose fundamental rights have been violated, and has been deprived of property and livelihood as a result of racial and gender discrimination on the part of State of Illinois et al and its officials?

"Privileges and immunities" clause of the Fourteenth Amendment means that rights which owe their existence to U.S. citizenship- that is those which are entirely derived from this Constitution or Federal laws may not be abridged by the States by anyway. "Due process clause" of the Fourteenth Amendment means that it must be fair in its subject matter and must be conducted with fairness in its procedure. These rights are basic and fundamental parts of equal protection clause. "Equal protection" clause is particularly designed to prevent and eliminate the State discriminatory actions against any person or group of people based on race, color, national origin or gender, etc. It is designed to protect any person or group of people from being singled out for hostile legislation or actions by the State government. It also means that all persons in the same situation must be treated with a like by the State. The Bill of Rights applies to the States by virtue of the Fourteenth Amendment. For, if it does not, the Bill of Rights will be without constitutional warrant and will be of no value.

My fundamental and constitutional rights have been violated, and I has been deprived of my property and livelihood without receiving "Due Process" and "Equal Protection." I have lost my livelihood as a result of racial and gender discrimination on the part of State of Illinois et al and its officials. The negative impact on me is worse than losing a job, since one can always find another job elsewhere. But without medical license, I am not permitted to practice anywhere.

It is a death of my medical profession. Immediately and indefinitely suspended my medical license was not only harmful to me as an individual but harmful to my patients too. The majority of my patients were women, children, African Americans, socio-economically disadvantaged people, and other minority. These population have a lot of difficulty in finding a family doctor to care for them. As a physician whose primary responsibility is caring for the welfare and well-being of other human beings, there should be some kind of consideration to protect harmful damages to the public. Their action indicates a lack of concern and caring of others.

The lower courts have failed to considered the Fourteenth Amendment of the U.S. Constitution as the bases of my claim. The Fourteenth Amendment was enacted with its aim to cancel out the Eleventh Amendment immunity. It is not fair for me when the lower courts applied the Eleventh Amendment immunity to protect State of Illinois et al and its officials but failed to protect me as a victim of racial and gender discrimination by not enforcing the Fourteenth Amendment of the Constitution. Unfortunately, law does not compel on its own, but requires enforcement by the court. Law can rectify a lot of things for better, provided that it is judiciously enforced. Without enforcement, law is useless. That is why the violation of laws on the part of Illinois State and its officials has become routine.

4. Are State of Illinois, IDPR, Medical Disciplinary Board and the individual defendants "persons" in the meaning of 42 U.S.C.A. § 1983?

The lower courts construed my complaint as a claim under 42 U.S.C.A. § 1983 but ruled that both State and its officials were not "persons" in the meaning of 42 U.S.C.A. § 1983. As such, it cannot be used as a basis of my claim. Actually, there are two forms of "Person," a human being and a legal created person or juristic person. In general usage "Person" means a human being. Legal created person means a body of person, corporation, partnership or other legal entity that is recognized by law as the subject of rights and duties. In 1871 Version of the Dictionary Act[5] which supplies rules of construction for all federal legislation, and which defined the term "person" to include "bodies politic and corporate."

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[5] Act of February 25, 1871, § 2, 16 Stat 431

Human means a being characterized by conscious apprehension or forming the subject of personality. Illinois State officials are physical and biological human beings, active, alive and function as human. Therefore, they are "person" in every sense. Illinois State officials conducted the many activities that obviously cannot be performed by either ghosts or robots. IDPR office composes of brick, wall, operating equipments, tables, chairs, desks, etc. Its' function is carried out by actions of living individuals with official authority in the Department. It is inappropriate for not to consider "Illinois State officials" as "Persons." Illinois State, IDPR, Illinois Medical Disciplinary board are bodies politic which are one form of legal created person. This can be substantiated by the fact that these three identities have blood circulation which receive from tax revenue; have its officials as arms and legs; active and function; and are recognized by law as the subjects of rights and duties. The word "Person" includes not only government officials, persons, and entities acting in concert with them,[6] but also municipalities, states, and their agencies.[7] In 42 U.S.C.A § 1983, the word "Every person who, under color of any statute,----of any State----" definitely means State official. The activities of deprivation of rights of any U.S. citizen or other person are surely the activities of human being. Therefore, both Illinois State and its officials are "Persons" in the meaning of 42 U.S.C.A. § 1983.

5. Did Administrative Hearing Process in IDPR and Illinois Medical Disciplinary Board violate "due process" clause of the Fourteenth Amendment and "Separartion of Powers Doctrine"?

The request for a hearing at IDPR office and request for preliminary hearing before the administrative law judge on January 29,1996 are the technique/mechanism that State of Illinois et al use to deceptively portray as the due process of law. However, it is not the due process in the concept of the Constitutional law, for example; IDPR office is not a court of law; the decision and /or judgement are unilateral, they do not make their information in the form of public record; there is no legal precedent for their actions; decision and judgement are made among their peers, not the peers of the accused; the accused has not given the opportunity to reply; the accused person is presumed guilty until proven innocent, and finally the accused has no right whatsoever. This is totally contradict to fundamental fairness in our American System. In addition, fundamental fairness in constitutional concept requires the separated powers doctrine. Power is typically separated into three branches: legislative, executive and judiciary which is totally different from administrative organization and structure in IDPR.

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[6] *Adickes v. S. H. Kress & Co.*, 398 U.S. 144 (1970)

[7] *Monell v. Department of Social Services*, 436 U.S. 658 (1978)

The individual defendants acted as investigator and police.The record of IDPR hearing indicated that IDPR operated as a court of law; IDPR was a complainant; Mr. David K. Igasaki was an employee of IDPR and acted as an attorney and prosecutor for IDPR; Mr. Michael V. Favia was Chief of Medical Prosecutions, and an employee of IDPR; Shari Dam was an Administrative Law Judge of IDPR, a hearing officer, and an employee of IDPR. One of IDPR record indicated that an evidentiary hearing was held on March 11,1996. Ms. Shari Dam presided as a hearing officer along with Mr. Virgil Wikoff from Medical Disciplinary Board of IDPR and Mr. David K. Igasaki, an attorney representing IDPR at this hearing. IDPR and employees acted as police, prosecutor, judge and jury at the same time. In addition, an administrative law judge's order dated February 15,1996 was hand written by Mr. David Igasaki. Another order dated March 11,1996 was a hand written by Shari Dam who signed the name for Mr. Igasaki, the attorney of IDPR. These practices are seen clearly on the photocopy of the original. The hand written portions of these exhibits are printed in italic (Appendix 203,209).

The administrative organization in IDPR reveals that Investigative, Prosecuting and Judiciary functions are all performed by IDPR. This type of administrative structure of IDPR automatically makes IDPR a single agency of combined powers which is contradict to the due process in constitutional law. This sort of combined powers also allows agencies to act more arbitrarily, abuse, misuse, discriminate, conspire, and to use adhoc solutions and sanctions rather than just resolution formally prescribed by standing law. I have lost my medical license as a result of this type of administration which is unfair to me.

6. Did State of Illinois et al intentionally apply and administer provision of Medical Practice Act 1987, 225 ILCS 60/22(A) (38) in discriminatory fashion?

Dr. Robert J. Schafer, Medical Co-ordinator of IDPR sent me a letter dated March 10,1994, requested me to release medical records of my patients pursuant to 225 ILCS 60 Section 22(A) (38). This Illinois Statute, is one of 38 grounds for the disciplinary actions and states

> "Failure to furnish the Department, its investigators, representatives, relevant information legally requested by the Department after consultation with the Chief Medical Coordinator or the Deputy Medical Coordinator."

Relevant information is not the medical records. Conversely, medical record is not relevant information. Relevant information in 225 ILCS 60/22(A)(38) of the Medical Practice Act 1987 becomes a subjective term in this instance. It can only be interpreted that it is relevant to their discriminatory intents since there was no charge or allegation against me prior to their initiation of investigation and prior to their request for the medical records. This provision of Illinois Statute appears to be neutral and fair on its face, but contains loop hole for abuse and discrimination. This provision was intentionally applied, and administered in a discriminatory fashion against me by State of Illinois et al. Apparently, they had seen all 38 grounds for disciplinary action and discovered that the last number contained a loop hole that they could use to discriminate against me. In addition, pursuant to Section 22(A) (38) of Medical Practice Act 1987, medical records must be requested by the Chief Medical Coordinator or the Deputy Medical Coordinator. Dr. Robert J. Schafer is neither Chief Medical Coordinator or Duputy Coordinator.

The medical records were utilized as the discriminatory tool at their discretion. Any time that they want to discriminate against any physicians, all they have to do is requesting for the medical records in accordance to number 38 of the section 22(A) of Medical Practice Acts. Once they obtain the medical records, they are able to make more allegations to fit to the grounds' number 1 to 37. If they could not find anything wrong to make more allegations, all they needed to do was making an allegation that the physicians did not send them the requested medical records and proceeded to suspend medical license any way. I encountered this devastating experience. Actually the medical record is the modern version of an old iron shackle that State of Illinois and its officials had used to captured me.

7. **Did the District Court's denial granting of protective injunctive relief represent a clear error of judgment?**

Despite my justification to fulfill my request for protective injunctive relief, the District Court totally ignored it and denied granting me the relief request with prejudice. The District Court used "the probability of success on merit" as one of the five criterias for making its decision whether or not to grant protective injunctive relief. Merit of the case is one thing but success is another. Success of lawsuit is dependent on the decision that is just and fair otherwise there is no way to succeed. Just decision should be based on merit, not on technicality or political reason. My claim has merit to prevail, however the probability of success has become zero since March 22,1996 when the District Court entered an order to dismiss First Amendment Complaint, all claims, and seven defendants. This order was entered six days before the hearing date on March 28,1996, and of course made injunctive hearing useless since there was no possibility of granting an injunctive relief by the court. The hearing for injunctive relief was made for the purpose of allowing the defendants to introduce the Exhibits of fabrications to be formally baptized by the court. Granting of an injunctive relief should not depend on the probability of success when the District Court has previously dismissed the claim and seven defendants who are in the official position that can harm me.

The dismissal of the lawsuit was based on immunity under the Eleventh Amendment and failure to state a claim upon which relief can be granted. The court allowed plaintiff seeking injunctive or declaratory relief which was not bar by the Eleventh Amendment. However, in granting an injunctive relief, the court contemplated "the probability of success on merit" as a condition of granting it. This is contradictory and a clear error in court decision. The District Court consciously recognized that the dismissal was with prejudice as it entered order on April 1,1996 and judgment on April 2,1996.

The District Court also stated that no administrative determination has been rendered and I did not lack remedy at law because I could obtain judicial review in the [Illinois] Circuit Courts once I have obtained a final administrative decision. Apparently, the District Court misapprehended the subject matter and nature of this lawsuit. This is racial and gender discrimination lawsuit against State of Illinois et al who began conducting random investigation on me and and perpetuated intentionally discriminatory practices against me because of my identity as being a female of Asian origin. This is a case of federal and constitutional question which is in the jurisdiction of the Federal court. There is no remedy outside the federal court. State court does not hear the case related to violation of federal and constitutional law. Moreover, it is also a conflict of interest to sue in Illinois State Court when State of Illinois is one of the defendants in the lawsuit. There was no show that the district court considered the other three criterias, i.e, plaintiff suffered from irreparable harm in the absence of injunctive relief, irreparable harm to plaintiff outweighed harm to defendants, and injunctive relief would not harm the public. It is very obvious that irreparable harm has been done to me; granting me an injunctive relief could never harm the defendants; and finally my patients are public that benefit greatly from my practice. Apparently, the court has made a political decision.

8. Did a review by the Seventh Circuit to determine whether the District Court "has abused its discretion" sufficient to its delivery of "Justice"?

The matter of discretion is always problematic for many reasons. Firstly, there is no universally accepted as to what matters are assigned to the discretion of the lower courts. Secondly, discretion is difficult to define, and there is no fine line to distinguish between discretion and discrimination. The United States Supreme Court has defined "discretion" as follows:

> "the absence of a hard and fast rule... when invoked as a guide to judicial action it means a sound discretion, that is to say a discretion exercised not arbitrarily or willfully, but with regard to what is right and equitable under the circumstances and the law and directed by the reason and conscience of judge to a just result."[8]

Thirdly, what sets of standard that justified the conclusion that the lower court has abused its discretion? Fourthly, should the court be allow an exercise of discretion at all. An exercise of discretion depends on whether there is only one right answer to each question or multiple right answers to each question. If there were multiple right answers to each question, then an exercise of discretion to choose between several right answers may be allowed. If there is only one right answer to each question, then discretion may not be allowed since discretion in this circumstance means the discretion to choose between one right and one wrong answer. It is harmful in case that a wrong answer is chosen by discretion. Finally, even in the absence of an abuse of its discretion, the lower court may commit a clear error of judgment that requires a correction of error by the Supreme Court. The Eighth Circuit described the discretion of the court as follows:

> "When Court of Appeals says that a decision is discretionary, or that a district court has discretion to grant or deny a motion, it does not mean that district court may do whatever it pleases, rather, it means that court has a range of choices, and that its decision will not be disturbed as long as it stays within that range and is not influenced by any mistake of law. An abuse of discretion can occur in three principle ways: when a relevant factor that should have been given significant weight is not

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[8] *Langenes v. Green*, 282 US 531, 541, 75 L. Ed 520, 51 S. Ct 243 (1931)

> considered; when an irrelevant or improper factor is considered and given significant weight; and when all proper factors, and no improper ones, are considered, but the court, in weighing such factors, commits a clear error of judgment."[9]

A review as to whether the district court has abused its discretion is only a small part of a large scope of reviewing for "doing justice." Abuse of its discretion, clear error and its legal conclusions are subjects of review by impartial reviewers. It requires reviewers with integrity, wisdom, good insight, and judgment in order to achieve just decision. People tend to believe in the way that justify their practice. Even in the absence of abuse of its discretion, there can still be a clear error of judgment. The most important thing is an outcome, the result of such judgment that occurs in real life, which is the best and the only genuine evidence which indicates the merit of such judgment. I am not interested in finding about abuse of its discretion. I am simply seeking "Justice" and some relief for my suffering.

By virtue of failure of the District Court to grant me an injunctive relief and the continuation of intentionally discriminatory practices on the part of State of Illinois et al to the extreme extent, I have lost my Illinois Medical License. This is absolutely unfair when I have not done any thing wrong. There is no justification for their actions. They have deprived me of my property, my rights and my livelihood. It is a death of my professional life. My life has been in miserable. This has occurred in my real life. On May 7,1996, I submitted a motion with memorandum, seeking a court order to vacate IDPR's order of indefinite suspension of my Illinois medical license. The request was made in order to protect me from a continual suffering and permanent damage; to terminate an unjust / discriminatory/ revenge actions against me on the part of State of Illinois et al; to allow legal process to proceed in an equitable manner in the federal court that would protect the overall integrity of all evidences submitted; to do justice for me and finally for the safety & welfare of my patients which were my most concern. The Seventh Circuit flatly denied my motion with no explanation.

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[9] *Kern v. TXO Production Corp.*, 738 F 2 d 968, 970 (1984, CA8 Ark)

Once again, I would like to clarify that the documents that I submitted to the courts were the documents of facts. These were not new documents but have been a public record long before the lawsuit. It is not fair to ignore these documents of facts when the Seventh Circuit made its decision. Several of these documents were my complaint to Governor Jim Edgar, Mr. Roland Burris, and Nikki M. Zollar, and these documents have been available to State of Illinois et al and Public since February, 1994. Some documents were Medical Procedure code, published by American Medical Association since 1992 and were submitted to the court to show that State of Illinois et al's exhibit # 3 was one of the genuine fabrications due to the fact that they used the procedure codes which have been deleted since January of 1992 (Nineteen ninety two). These documents confirmed my complaint that I previously filed with court. As I have previously explained to the Seventh Circuit that there was a lack of initial disclosure, reciprocal discovery process, and jury trial in this case, as such I did not have the opportunity to present them to the court earlier. So far justice has been denied and I have been further penalized by the order and judgment of the Seventh Circuit. I highly admire the district court for its awareness and declaration that its decision and judgment of this lawsuit were with prejudice. Therefore, the affirmative decision to the district court's decision must be interpreted as being with prejudice.

CONCLUSION

For the foregoing reasons, I respectfully request this court grant my Petition for a Writ of Certiorari and vacate the Seventh Circuit order and judgment and grant me relief as previously requested.

Respectfully submitted,

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United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604
Submitted April 1,1997*
Decided April 7,1997

Before

Hon.Richard A. Posner, Chief Judge
Hon. Michael S. Kanne, Circuit Judge
Hon. Diane P. Wood, Circuit Judge

Unpublished order
not to be cited
per circuit rule 53

YAVARACE YOUNG, M.D.
Plaintiff-Appellant

No. 96-1958 V.

STATE OF ILLINOIS et al.,
Defendants-Appellees.

Appeal from the United States
District Court for the
Southern District of Illinois.
No. 95-CV-0655-PER

Paul E. Riley,
Judge.

ORDER

The Illinois Department of Professional Discipline began an investigation into the billing practices of Dr. Yavarace Young. Dr. Young, an Asian-American woman, responded by filing suit, *pro se,* in federal court against the State of Illinois, two state agencies, and various officials,1 claiming that the investigation discriminated against her on the basis of her gender and ethnic origin. She sought both damages and injunctive relief. The district court construed Young's complaint as a suit under 28 U.S.C. § 1983.

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* After an examination of the briefs and the record, we have concluded that oral argument is unnecessary. Therefore, the appeal is submitted on the briefs and the record. *See* Fed. R. App. P. 34(a); Cir. R. 34(f).

1. In addition to the State of Illinois, Young sued the Illinois Department of Professional Regulation, its Director Nikki M. Zolar, the Illinois Medical Disciplinary Board, Chief of Medical Investigations William B. Shlifka, Medical Coordinator Robert J. Schafer, Investigator Steven Wagy, and Illinois State Police Officer Dave Walker.

The court denied the request for injunctive relief, and dismissed the claims for monetary relief as barred by the Eleventh Amendment. We affirm.

Young's principal argument is that the Eleventh Amendment does not bar her suit. She does not deny that she sued the state, its agencies, and various individuals in their official capacities. Rather, she contends that the district court erred in dismissing her claims on Eleventh Amendment grounds because she filed the complaint under the Fourteenth Amendment, and the defendants never objected to suit on that basis. First, there is no direct cause of action under the Fourteenth Amendment: litigants must proceed under § 1983. *Baxter v. Vigo Cty. School Corp.*, 26 F.3d 728, 732 n.3 (7th Cir. 1994). Moreover, Young misapprehends the nature and seriousness of the "unavoidable jurisdictional hurdle" which the doctrine of state sovereign immunity enshrined in the Eleventh Amendment raises against her suit. *Crosetto v. State Bar of Wisconsin*, 12 F.3d 1396, 1400 (7th Cir. 1993).

Federal courts lack subject-matter Jurisdiction over suits by a citizen against her own state, its agencies, or state officials acting in their official capacities. *Atascadero State Hospital v. Scanlon*, 473 U.S. 234, 238 (1983); *Crosetto*, 12 F.3d at 1400-01. A state may waive its sovereign immunity only by state statute, a state constitutional provision, or by state officials with specific authority to waive such immunity. *Estate of Porter v. Illinois*, 36 F.3d 684, 690 (7th Cir. 1994) (citations omitted). Illinois has not waived its sovereign immunity, and none of the officials whom Young sued have the authority to do so. 745 ILCS § 5/1*; see also People v. Patrick J. Gorman Consultants, Inc.*, 444 N.E.2d 776, 778 (Ill. Ct. App. 1982) (citations omitted); *Seifert v. Standard Paving Co.*, 355 N.E.2d 537, 538-39 (Ill. 1976). And while Congress may abrogate state immunity under the Eleventh Amendment if it clearly expresses its intent to do so, "[a] general authorization for suit in federal court," the Supreme Court teaches, "is not the kind of unequivocal statutory language sufficient to abrogate the Eleventh Amendment."

Atascadero, 473 U.S. at 243. Therefore, the Eleventh Amendment bars § 1983 actions against a state, state agency, and state officials acting in their official capacities. *Baxter,* 26 F.3d at 731. Moreover, even if the defendants never raise the issue of sovereign immunity, it is so fundamental to federal jurisdiction that courts may raise it of their own *accord. Crosetto,* 12 F.3d at 1402 n.10. Consequently, the defendants are immune from suits like Young's, and the district court correctly dismissed her claims for monetary relief.

The Eleventh Amendment, of course, does not bar Young's request for an injunction to halt the investigation against her. The district court concluded, however, that Young was unlikely to succeed on the merits because she had presented no evidence supporting her claim of discrimination, and that she had an adequate remedy at law under the Illinois Medical Practice Act. 225 ILCS § 60. Accordingly, the court refused to issue a preliminary injunction. *See Stork USA L.P. v. Farley Candy Co.,* 14 F.3d 311, 314 (7th Cir. 1994). We review the district court's decision to deny a preliminary injunction for abuse of discretion; its conclusions of law *de novo;* and its findings of facts

for clear error. *Aircraft Owners & Pilots Assoc. v. Illinois,* 102 F.3d 1421, 1424 (7th Cir. 996).

Young first argues that the hearing before the district court was procedurally improper because the defendants were permitted to introduce surprise witnesses and evidence. Our review of this issue, however, is frustrated by Young's failure to provide a transcript of the hearing at which the court denied the injunction. Fed. R. App. P. 10(b)(2). Young insists that because she properly served defendants with a copy of the statement of issues she intended to present on appeal, and they raised no objection to that statement, there was no need to provide a transcript. Fed. R. App. P. 10(b)(3). We disagree. Rule 10(b)(2) mandates that "[i]f the appellant intends to urge on appeal that a finding or conclusion is ... contrary to the evidence, the appellant *shall include* in the record a transcript of all evidence relevant to such finding or conclusion" (emphasis added); *see also LaFollette v. Savage,* 63 F.3d 540, 544 (7th Cir. 1995).

Young declined to order even a partial transcript "because the hearing and proceedings were prejudice[d]"2. But without the transcript, it is impossible for us to determine whether the hearing was conducted fairly or not. Just because defendants did not object to Young's statement of issues under Rule 10(b)(3) does not mean that we can accept her uncorroborated word that the hearing was flawed. The appellees have no duty to supplement the record on appellant's behalf. *Birchler v. Gehl Co.*, 88 F.3d 518, 520 (7th Cir. 1996). Consequently, we find that Young has violated Rule 10(b), and dismiss the appeal to the extent that she seeks a remand on procedural grounds.

Young also contends that the district court should have ruled that the evidence she presented at the hearing showed a likelihood of success on the merits. But there is simply nothing in the record which supports her contention that bias motivated the State's investigation against her. Conclusory allegations of bias based only on a plaintiffs own perceptions are insufficient. *See Minority Police Officers Ass'n of South Bend v. City of South Bend*, 801 F.2d 964, 967 (7th Cir. 1986). At most, Young has alleged procedural irregularities in the investigation, for which (as the district court noted) the Illinois Medical Practice Act provides an adequate remedy at law. 225 ILCS § 60/41. Accordingly, the district court correctly denied the injunction.

Finally, Young complains that after the district court issued its decision, defendants indefinitely suspended her medical license. She seeks to have this action undone, apparently on the theory that if we reverse the denial of a preliminary injunction, we will also undo all acts which the injunction would have prohibited had it

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2. Young, who submitted lengthy appendices including several documents never submitted to the district court, appears to misunderstand the nature of our appellate review. While we examine the record as a whole to determine whether the district court has abused its discretion, we do not provide litigants with a new hearing on the evidence: we review what the district court has done.

been granted. Nothing in the record, however, suggests that Young has pursued the Avenues for administrative and judicial review of license suspensions provided under the Illinois Medical Practice Act. 225 ILCS § 60/41; *see also Rios v. Jones*, 323 N.E.2d 380, 387 (Ill. App. Ct. 1974) (Medical Practice Act requires exhaustion of administrative remedies). Because Young has neither exhausted her administrative remedies nor demonstrated that her case meets one of the exceptions to the exhaustion doctrine, *McCarthy v. Madigan*, 503 U.S. 140, 144-48 (1992), we dismiss her claim.

AFFIRMED in part, **DISMISSED** in part.

United States Court of Appeals *pb*
For the Seventh Circuit
Chicago, Illinois 60604
June 5,1996

Before

Hon. RICHARD A. POSNER, *Chief Judge*
Hon. JOEL M. FLAUM, *Circuit Judge*
Hon. MICHAEL S. KANNE, *Circuit Judge*

YAVARACE YOUNG, M.D., Plaintiff-Appellant,

No. 96-1958

V.

STATE OF ILLINOIS, ILLINOIS
DEPARTMENT OF PROFESSIONAL REGULATION, ILLINOIS
MEDICAL DISCIPLINARY BOARD, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the
Southern District of Illinois, East St. Louis Division.
No. 95 C 655 Paul E. Riley, Judge.

Upon consideration of: "MOTION FOR AN ORDER TO IMMEDIATELY VACATE AN ORDER OF ILLINOIS DEPARTMENT OF PROFESSIONAL REGULATION TO SUSPEND DR. YAVARACE YOUNG'S ILLINOIS MEDICAL LICENSE" filed on May 7, 1996, by the pro se appellant,

IT IS ORDERED that the motion is **DENIED.**

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

YAVARACE YOUNG, M.D.,
Plaintiff,

VS.

STATE OF ILLINOIS;
ILLINOIS DEPARTMENT OF
PROFESSIONAL REGULATION;
ILLINOIS MEDICAL DISCIPLINARY
BOARD; NIKKI M. ZOLLAR;
WILLIAM B. SHLIFKA;
ROBERT J. SCHAFER, M.D.;
STEVEN WAGY; and DAVE WALKER,
Defendants.

FILED am
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STUART J. O'HARE
Clerk U.S.District Court
Southern District of Illinois
East St. Louis Office

NO: 95-CV-0655-PER

MEMORANDUM AND ORDER

RILEY, District Judge:

I. Introduction

Yavarace Young, an Asian-American female physician, filed suit in this Court in August 1995 alleging race and gender discrimination by eight Defendants. Dr. Young is proceeding *pro se* and has named the following Defendants: (1) the State of Illinois; (2) the Illinois Medical Disciplinary Board ("Board"); (3) the Illinois Department of Professional Regulation ("Department"); (4) Department Director, Nikki Zollar; (5) Chief of Medical Investigations for the Department, William Shlifka; (6) Department Medical Coordinator, Robert Schafer; (7) Department Investigator, Steven Wagy; and (8) Illinois State Policeman, Dave Walker.

Young's complaint did not identify any statute or provision under which suit was brought. *Three possible* bases for a federal discrimination action are Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 1981, and 42 U.S.C. § 1983. On December 6, 1995, this Court entered an Order dismissing Young's complaint without prejudice and permitting her thirty days to amend her complaint. The Order specifically stated that Young's existing complaint failed to state a claim under Title VII, failed to state a claim under § 1981, and failed to state a claim under § 1983. The Court granted Young until February 6, 1996 to file an amended complaint.

Just prior to expiration of that deadline, a flurry of correspondence and motions arrived. The Court responded with a second Order which, *inter alia*, reiterated the February 6th amended complaint filing deadline. The Order explained that since the original complaint had been dismissed, there was no pleading before the Court. Since no complaint existed, Young had to file a new, complete pleading which listed all bases for her claims. Young was warned that her cause of action would be terminated if she did not file a proper amended complaint by February 6th.

II. The Amended Complaint & Related Pleadings

On February 5, 1996,Young filed an amended complaint. The following day, she filed a pleading entitled: "Addendum of First Amended Complaint of Racial and Gender Discrimination." Before Defendants had answered the amended complaint, Young filed a "Motion for Immediate Protective Injunctive Relief"against Defendants. Three days later, she filed another motion -- this one seeking clarification of this Court's February 5, 1996 Order. Specifically, Young asked the Court to: define the term "properly" as used in the Court's Order; clarify the date of a letter mentioned in the Order; and retain in the Court file all documents filed (and letters sent) by

Young.

Defendants responded to this wave of filings with a motion to dismiss Young's amended complaint. Young replied by way of a motion to *strike* the motion to dismiss the amended complaint.

The Court begins with an initial observation regarding Young's amended complaint. Despite clear statements in the Court's prior Orders, Young apparently still does not understand that her original complaint was dismissed *in its entirety* and may no longer be referred to or relied on by her. None of the allegations contained in that complaint remain before the Court. Young erroneously declares (amended complaint, p. 2): "The plaintiff s original complaint, and memorandum attached to motion to quash ... are considered admitted when not denied by defendants .... Therefore, these documents are retained as evidential facts, and plaintiff would like to add these documents as part of the amended complaint." No such addition may be permitted.

Once the original complaint was dismissed, it is as if it never existed. No allegations therein may be incorporated into Young's amended complaint by reference. (*See* Local Rule 7(a) of this Court.) Local Rule 7(b) provides that amended pleadings "shall contain all allegations which a party intends to pursue." In short, what is before the Court is only what appears in Young's February 6, 1996 "First Amended Complaint of Racial and Gender Discrimination"(Doc. 14). Therefore, Young's motion for clarification -- addressed largely to matters raised in the prior complaint -- (Doc. 19) is now **MOOT.** Young's motion to strike Defendants' motion to dismiss (Doc. 23) is **DENIED.** Young's motion simply states the grounds on which she opposes dismissal. The appropriate pleading in which to raise such arguments is a responsive brief or motion in opposition to dismissal,

not a motion to strike. Thus, the Court denies the motion to strike but will construe it as a memorandum opposing dismissal. The Court now addresses Defendants' motion to dismiss the amended complaint.

III. Analysis of Motion to Dismiss

Defendants seek dismissal on two grounds: one, that suit against them is barred by the Eleventh Amendment; and two, that the amended complaint fails to state a claim upon which relief can be granted. These arguments will be discussed in turn.

A. Eleventh Amendment as Bar to Plaintiff s Suit

Defendants correctly state the general principle that the Eleventh Amendment to the United States Constitution prohibits federal courts from deciding suits brought by private litigants against states, state agencies and state officials acting in their ***official capacities***. See Will v. ***Michigan Dept. of State Police***, 491 U.S. 58, 66-67 (1989) (Eleventh Amendment bars suits for deprivation of civil rights unless the State has waived its immunity). The Seventh Circuit recently explained the scope of the bar:

This constitutional bar applies to suits against any state, ... its departments or agencies, ... and its officials "when the state is the real party in interest...." For state officials, "[t]he general rule is that relief sought nominally against an officer is in fact against the sovereign if the decree would operate against the latter." ***Hawaii v. Gordon***, 373 U.S. 57, 58 (1963). ***Frances J. v. Wright***, 19 F.3d 337,342 (7th Cir.), ***cert. denied***, ***115*** S. Ct. 204 (1994). Among the Defendants named by Young in this lawsuit are the State of Illinois, the Department and the Board. Suit against the State and two of its departments/agencies clearly is prohibited by the Eleventh Amendment. States and their agencies have immunity in federal court against suits brought by their own citizens. The Seventh Circuit has characterized this determination as a simple decision:

Smith ... claims that the enforcement of [Wisconsin statute] violated his constitutional rights, and seeks damages. We first take up the question of [the Department's] sovereign immunity with respect to Smith's claim. This is an easy question. [The Department] is a state agency. It therefore has sovereign immunity, and Smith cannot recover damages against it in federal court. ***Smith v. Wisconsin Dept. of Agriculture, Trade and Consumer Protection***, 23 F.3d 1134, 1138 (7th Cir. 1994), ***citing Edelman v. Jordan***, 415 U.S. 651 (1974). The State, the Department and the Board must be dismissed from this action based on the doctrine of sovereign immunity.

Four other Defendants are the Director of the Department (Nikki M. Zollar), the Chief of Medical Investigations for the Department (William Shlifka), the Medical Coordinator for the Department (Robert Schafer), and a Department Investigator (Steven Wagy). Even construed with all inferences in her favor, Young's complaint sues these four Defendants in their *official* capacities only. For instance, she complains that Defendant Schafer wrongfully sent letters requesting medical records of several of her patients. Clearly, Schafer acted in his official capacity as a Department *(i.e.,* State) employee in sending this letter. Suit as to Zollar, Shlifka, Schafer and Wagy also appears to be barred by the Eleventh Amendment.[1] But that determination is not as easy as it appears at first blush.

The tricky task in applying the Eleventh Amendment to suits against state *officials* is that its effect upon a suit is determined in part by the nature of the action. *See, eg.,* ***Brunken*** *v. Lance,* 807 F.2d 1325, 1328-29 (7th Cir. 1986). In ***Brunken,*** the Seventh Circuit described three types of lawsuits brought by citizens against states or state entities. The case at bar falls within the category described as official-capacity suits against state officials for actions taken under color of state law. Id at 1329.[2] Such suits are to be treated as a suit against the governmental entity. These actions do implicate the Eleventh Amendment, but the Amendment's precise impact depends on the kind of relief sought by the plaintiff:

> If the action is for damages, so that payment of a damages award requires payment from the State Treasury to remedy past wrongs, the Eleventh Amendment bars such an action, in the absence of a waiver by the State .... By contrast, under the landmark case of *Ex Parte Young,* 209 U.S. 123, ... the Eleventh Amendment does not bar a citizen from seeking injunctive or declaratory relief against a state official "to conform [his] future conduct to the requirements of state law."

Brunken at 1329 (emph. added).

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[1] The remaining Defendant -- Dave Walker -- apparently is an Illinois State Trooper who participates in Department investigations. The complaint offers little information as to Walker's position, and the Court has no affidavit from Walker on this issue. Thus, the Court cannot determine, at this time, whether Walker is a "state official" entitled to immunity from suits seeking monetary relief.

Young's amended complaint seeks *both* types of relief. She does seek injunctive relief to prevent Defendants from continuing their current investigation (or initiating any new investigations), but she also seeks remedy for their past wrongs. This theme runs throughout her pleadings. Clearly, Young seeks monetary damages. In fact, she prays for $1,000,000 in "compensatory" damages from Defendants.

Thus, although dismissal of Young's entire action as barred by the Eleventh Amendment is unwarranted: (a) the State, the Department and the Board are dismissed from this action, and (b) all claims against Defendants Zollar, Shlifka, Schafer and Wagy which seek anything other than purely injunctive or declaratory relief are hereby stricken.

B. Failure to State a Claim Upon Which Relief Can Be Granted

Defendants next argue that if Young's suit is not barred by sovereign immunity, her amended complaint fails to state a claim upon which relief can be granted. The Court agrees that even under the very liberal standards governing review,[3] Young's complaint appears to fall short. For example, states and their agencies are not "persons" susceptible to suit under 42 U.S.C. § 1983, *Will*, 491 U.S. at 71, so she can state no claim under that statute. Young has not pursued the administrative remedies which are a condition precedent to filing of a Title VII lawsuit in federal court, *Cheek* v. *Western & Southern Life Ins.*, 31 F.3d 497, 500 (7th Cir. 1994), so she has stated no claim thereunder. And Young's complaint does not reveal how Defendants

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[2] *See also Estate of Porter v. State of Illinois*, 36 F.3d 684, 690 (7th Cir. 1994) (federal lawsuits naming state officials as defendants give rise to Eleventh Amendment immunity if the state is the real, substantial party in interest. Such is the case where an individual sues a state employee in his official capacity and seeks money damages from the state treasury).

interfered with her rights under § 1981, which provides that all persons "shall have the same right ... to make and enforce contracts ... as is enjoyed by white citizens."[4]

As to the remaining allegations in the complaint--allegations that Young is being unfairly investigated by Defendants -- suit in this Court is, at best, premature.[5] The persistent theme throughout Young's complaint is Defendants have acted improperly in conducting their investigation into her medical practice. She claims that they have invaded her right to privacy, wrongly collected medical records, abused the power invested in them by Illinois statute, and violated her due process rights in the course of their investigation.

The evidence before this Court indicates that the investigation of Young's medical practice is currently underway, and no hearing has even been held yet to determine if she has violated any provision of the Illinois Medical Practices Act. No disciplinary "punishment" or penalty has been inflicted upon Young, and her medical license has not been suspended or revoked. Young will have the right to judicial review of the Department's determination, *after* such a determination is finalized. But that determination has *not* been made, and judicial review will not be in *this* Court.

One recent Illinois case with similar facts and allegations brought against several of the same defendants named by Young is instructive. In *Obasi* v. *Illinois Dept.* of *Professional Regulation*, 639 N.E.2d 1318 (Ill. App. 1994), a surgeon contested the summary suspension of his license by the Department of Professional Regulation and the Department's Director following a

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[3] The pleadings of *a pro se* litigant must be read liberally, *Caldwell* v. *Miller,* 790 F.2d 589, 595 (7th Cir. 1986). Under simplified notice pleading, the court assumes true all well-pleaded facts and construes the complaint generously to the plaintiff. *Lewis v.*Local Union No. 100, 750 F.2d 1368,1373 (7th Cir. 1984).

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4. Young's complaint does not even identify the statute under which she is proceeding. The Court simply discusses these three statutes as possible avenues for bringing a federal court discrimination action.

5. Although not raised by Defendants here, a strong argument can be made that federal court is entirely the wrong venue in which to raise these claims at all.

hearing before the Illinois State Medical Disciplinary Board. The hearing officer concluded that the Department had proved by clear and convincing evidence the charges against Dr. Obasi under the Illinois Medical Practice Act of 1987. Obasi filed an administrative review action in state court. The court affirmed the revocation, and Obasi appealed.

In its decision partially affirming the revocation, the Illinois Appellate Court provided a thorough explanation of the proper procedure for challenging the actions and rulings of the Illinois Department of Professional Regulation. The Medical Practice Act of 1987, 225 ILCS *60/1, et seq.* (1992), separates the investigative and prosecuting functions performed by the Department of Professional Regulation from the adjudicatory functions performed by the Medical Disciplinary Board. The Act provides that all final administrative decisions of the Department are subject to judicial review pursuant to the provisions of the Administrative Review Act, 735 ILCS *5/3-101, et seq.* (1992). Judicial review of Department decisions extends to all questions of law and fact presented by the record of the administrative proceeding. *Obasi* at 1323.

As to Dr. Obasi's due process claims, the Court explained:

> In administrative matters, due process is satisfied when the party concerned is provided an opportunity to be heard in an orderly proceeding which is adapted to the nature and circumstances of the dispute ....

Id. at 1325. Applying that rule to the case at bar leads to the conclusion that the Act under which Defendants are conducting their investigation adequately protects due process rights. It requires notice to be given to the physician of the charges made, and it provides for a public hearing to present statements, testimony, evidence and argument on those charges. 225 ILCS 60/36-37. Furthermore, as stated above, the Act provides for judicial review of all final administrative decisions of the Department. *Obasi* at 1324. The Illinois Supreme Court has declared that the Act complies with the constitutional requirements of due process. *Obasi* at 1324, *citing Abrahamson* v. *Illinois Dept. of Professional Regulation,* 606 N.E.2d 1111 (Ill. 1992).

The problem here is that although Young claims that she is being improperly investigated by the Department of Professional Regulation, her complaint contains no indication that she has pursued her administrative remedies under the Illinois Medical Practices Act (a statute which Young herself cites, so she is aware of its provisions). To the contrary, the pleadings on file suggest that the investigative process is still underway, and no administrative determination has been rendered. The Department's investigatory and disciplinary procedures have been upheld by the Illinois Courts and have been specifically found to protect due process rights. Young has not obtained a final administrative decision which is subject to judicial review. When she does obtain that decision, her review is in the Illinois courts. "Jurisdiction to review final administrative decisions is vested in the [Illinois] Circuit Courts." 735 ILCS 5/3-104.

She has cited no authority supporting a right to sue *in federal* court to contest the conduct of state officials in an Illinois agency investigation. She has cited no authority allowing a federal suit to challenge the methods being employed in an ongoing investigation by state officials authorized under Illinois law to investigate medical fraud and abuse. Young *may* have a right to seek a preliminary injunction to stop the ongoing investigation, and she has filed a "Motion for Immediate Protective Injunctive Relief" (Doc. 17, filed on February 20, 1996). And the status of her claims against Defendant Walker remains unresolved. For these reasons, the Court declines to dismiss her action in its entirety.

IV. Conclusion

Plaintiff s Motion to Strike (Doc. 23) is **DENIED.**

Plaintiff s Motion for Clarification (Doc. 19) is **DENIED as moot.**

Plaintiff s Motion for Immediate Injunctive Relief (Doc. 17) is **SET FOR HEARING on Thursday, March 28, 1996** at 10: 15 a.m. Plaintiff should be prepared to present evidence and argument as to why she is entitled to the grant of a preliminary injunction against the state official Defendants.

Defendants' Motion to Dismiss First Amended Complaint (Doc. 21) is **GRANTED in part** and **DENIED in part.** It is **granted** in that Defendants, the State of Illinois, the Illinois Medical Disciplinary Board and the Illinois Department of Professional Regulation, are **DISMISSED** from this case. It is also **granted** in that all claims against Defendants Zollar, Shlifka, Schafer and Wagy -- *other than claimsfor declaratory or injunctive relief* -- are **STRICKEN** from Young's amended complaint *(i.e.,* the claim for monetary relief is stricken). It is **denied** in that some claims remain for further disposition.

IT IS SO ORDERED.

DATED this 22 nd day of March 1996.

/s/ Paul E. Riley
Paul E. Riley
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

YAVARACE YOUNG, M.D.,
Plaintiff,

FILED am
APR 01 1996
STUART J. O'HARE
Clerk U.S.District Court
Southern District of Illinois
East St. Louis Office

VS

STATE OF ILLINOIS;
ILLINOIS DEPARTMENT OF
PROFESSIONAL REGULATION;
ILLINOIS MEDICAL DISCIPLINARY
BOARD; NIKKI M. ZOLLAR;
WILLIAM B. SHLIFKA;
ROBERT J. SCHAFER, M.D.;
STEVEN WAGY; and DAVE WALKER,
Defendants.

NO: 95-CV-0655-PER

MEMORANDUM AND ORDER

RILEY, District Judge:

Dr. Yavarace Young, a practicing physician, filed suit in this Court alleging discrimination on the basis of her gender (female) and ethnic origin or race (Asian-American). She sued eight Defendants, including the State of Illinois, several state agencies, departments and officials. On March 22, 1996, the Court dismissed much of the suit. Specifically, Defendants the State of Illinois, the Illinois Department of Professional Regulation and the Illinois Medical Disciplinary Board were entirely dismissed from the action.

Additionally, all claims for *monetary relief* were dismissed against four Defendants who are state officials, sued in their official capacities: Nikki M. Zollar, William B. Shlifka. Robert

J.Schafer and Steven Wagy. These claims were dismissed because the United States Constitution prohibits federal courts from deciding suits brought by private litigants against states, state agencies and state officials acting in their official capacities. ***See, eg., Seminole Tribe*** of ***Florida v. Florida,*** 1996 WL 134309 (March 27, 1996); ***Will v. Michigan Dept. ofstate Police,*** 491 U.S. 58, 66-67 (1989). The Court was unsure as to the position held by Defendant Dave Walker, so the Court reserved ruling on whether monetary claims against Walker were barred by the doctrine of sovereign immunity. The Court holds now that those claims ***are*** similarly barred as to Walker.

What remains of Young's lawsuit are her claims for injunctive relief against Zollar, Shlifka, Schafer, Wagy and Walker. ***See, eg., Brunken v. Lance,*** 807 F.2d 1325, 1329 (7th Cir. 1986) (federal suit against state officials for money damages is barred by Eleventh Amendment, but "the Eleventh Amendment does ***not*** bar a citizen from seeking injunctive or declaratory relief against a state official"). Young sought a preliminary injunction, and this Court held a hearing on March 28, 1996. In attendance were Plaintiff Young, Defendants Walker and Wagy, Defendants' counsel, Greg Riddle, and Department of Professional Regulation attorney Dave Igasaki. The Court heard argument and testimony and received documentary evidence, then took the matter under advisement. The Court now rules as follows.

The motion for immediate injunctive relief (Doc. 17) is **DENIED.** Plaintiff Young has failed to satisfy the five-pronged test governing the grant of preliminary injunctions:

A preliminary injunction is extraordinary relief and will be granted only if the plaintiff can show: (1) a probability of success on the merits; (2) the existence of irreparable harm; (3) the absence of an adequate remedy at law; (4) that the threat of harm to the plaintiff outweighs the harm that would result to the opposing party; and (5) that the public interest will not be disserved by granting the relief.

Glisson v. U.S. Forest Service, 805 F. Supp. 647, 649 (S.D. Ill. 1992). Although the appropriateness of granting preliminary injunctive relief depends upon a balancing of these factors, and no single factor is determinative, *Banks v. Trainor,* 525 F.2d 837, 841 (7th Cir. 1975), *cert. denied,* 424 U.S. 978 (1976), Young has entirely failed to show several of these elements.

First, she has failed to demonstrate any likelihood of success on the merits of her federal discrimination claim against the remaining Defendants. Put bluntly, not a shred of evidence was adduced at the hearing that any named Defendant (or anyone else at the Illinois Department of Professional Regulation) took any action, made any comment or reached any decision regarding the investigation of Young's billing practices based on her status as a woman or an Asian-American. Plainly, she has failed to state any cause of action upon which relief can be granted by a federal district court.

Furthermore, Young has not established that she lacks a remedy at law. When she obtains a final decision from the Director of the Department of Professional Regulation, she has a right to seek judicial review in the Illinois Circuit Court. Thus, she does have a remedy at law available. That remedy lies outside this Court.

This Court need go no further in deciding that all claims for injunctive relief merit dismissal. The Court does not intend to be harsh to Mrs. Young. The Court understands that she feels wronged by the investigation conducted on her practice. But, as Mrs. Young herself has sagely reminded this Court, the truth is the truth, and reality is reality. The evidence before this Court discloses no wrongdoing by any named Defendant herein. The evidence before this Court does *not* support the conclusion that Young was discriminated against by Defendants on the basis of her race or gender. Because no claims remain, and because Young has failed to state any claim upon which relief can be granted by this Court, the Court has no other option than to dismiss the complaint.

The motion for injunctive relief (Doc. 17) is hereby **DENIED** and the amended complaint (Doc. 14) is hereby **DISMISSED with prejudice.**

IT IS SO ORDERED.

DATED this 1 day of April 1996.

/s/ Paul E. Riley
Paul E. Riley
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

YAVARACE YOUNG, M.D.,
Plaintiff,

FILED am
DEC 06 1995
STUART J. O'HARE
Clerk U.S.District Court
Southern District of Illinois
East St. Louis Office

VS

STATE OF ILLINOIS;
ILLINOIS DEPARTMENT OF
PROFESSIONAL REGULATION;
ILLINOIS MEDICAL DISCIPLINARY
BOARD; NIKKI M. ZOLLAR, Director of Illinois Department of Professional Regulation;
WILLIAM B. SHLIFKA, Chief of Medical Investigations;
ROBERT J. SCHAFER, M.D. Medical Coordinator;
STEVEN WAGY, Investigator;
and DAVE WALKER, Illinois State Police,
Defendants.

NO: 95-CV-0655-PER

MEMORANDUM AND ORDER

RILEY, District Judge:

I. Introduction

Yavarace Young, the *pro se* Plaintiff in this case, is an Asian-American female physician who practices in Alton, Illinois. She filed a complaint in this Court in August 1995 alleging race and gender discrimination by eight Defendants, including the State of Illinois ("the State"), the Illinois Department of Professional Regulation ("the Department"), and the Illinois

Medical Disciplinary Board ("the Board").[1]

Young claims that in February 1994, two individuals (claiming to represent the State on a random investigation of medical fraud) visited her office without advance notice and disrupted her practice. Subsequent to this surprise visit, Young received correspondence from the Department requesting the release of medical records of several of her patients. Young alleges that she provided the records, but Defendants have withheld requested information and have not furnished a satisfactory explanation for their investigation. Additionally, Young complains that Defendants talked to some of her patients without her knowledge. She contends that these actions constitute discrimination based on her gender and/or race.

Young seeks: (a) a court order compelling Defendants to cease their investigation and prohibiting Defendants (and all related Illinois agencies) from initiating any actions against her during the pendency of this case; (b) a jury trial; and (c) damages in the amount of one million dollars (for loss of business revenue, damages to reputation, mental and physical suffering, and legal expenses). Now before this Court are Defendants' "Motion to Dismiss Plaintiff's Complaint" (Doc.5) and Plaintiff s responsive "Motion to Quash" (Doc. 7).

II. Standard Governing Motion to Dismiss

Under FEDERAL RULE OF CIVIL PROCEDURE 8, a complaint "shall contain ... a short and plain statement of the claim showing that the pleader is entitled to relief" Complaints need not

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1. Other named Defendants are five individuals: Department Director Nikki Zollar, Chief of Medical Investigations William Shlifka, Medical Coordinator Robert Schafer, Investigator Steven Wagy, and Illinois State Policeman Dave Walker. All eight Defendants may be referred to collectively herein as "Defendants."

identify the precise statute upon which the claim is based, and the plaintiff need not plead every factual allegation necessary to prevail. *First Nat'l Bank v. Acco USA, Inc.*, 842 F. Supp. 311, 316 (N.D. Ill. *1994); Ruich v. Ruff, Weidenaar & Reidy, Ltd.*, 837 F. Supp. 881, 885 (N.D. Ill. 1993). Plaintiff must, however, delineate sufficient facts to outline the cause of action. *Capalbo v. PaineWebber, Inc.*, 694 F. Supp. 1315, 1318 (N.D. Ill. 1988). "The complaint must state either direct or inferential allegations concerning all of the material elements necessary for recovery under the relevant legal theory." Id. at 1318, *citing- Mescall v. Burrus,* 603 F.2d 1266 (7th Cir. 1979).

In ruling on a motion to dismiss a complaint for failure to state a claim, the district court takes as true all facts alleged plus the reasonable inferences therefrom and determines whether under those assumptions -- the plaintiff would have a right to legal relief. *Bane v. Ferguson,* 890 F.2d 11, 13 (7th Cir. 1989). Defendants claim that even applying these liberal standards, Plaintiff s complaint fails to state a claim for racial or sexual discrimination.

III. Analysis

Defendants correctly note that Plaintiff s complaint does not identify any statute or provision under which suit is brought.[2] Three possible bases for a gender or race discrimination suit in federal court are Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 1981, and 42 U.S.C § 1983.

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[2] Plaintiff s October 23, 1995 memorandum in support of motion to quash (Doc. 8) suggests several *potential* sources for her claims, but she has not moved to amend her complaint to include any of these statutes or laws.

A. Title VII

Title VII prohibits employers and labor organizations from discriminating against employees based on race or sex. 42 U.S.C. § 2000e-2(a)(1). Title VII is inapplicable to Plaintiff s complaint, as that statute protects employees against discriminatory treatment *by their employers,* and Plaintiff (a self-employed medical doctor) is not an "employee" within the ambit of Title VII. Nor does Plaintiff' s complaint allege that she has satisfied the exhaustion requirement necessary to maintaining a Title VII action in federal court.[3] Thus, the complaint fails to state a Title VII claim upon which relief can be granted.

B. 42 U.S.C. § 1981

42 U.S.C. § 1981 protects against race discrimination by providing that "all persons" shall have the same right to make and enforce contracts as is enjoyed by white citizens. ***Von Zuckerstein*** v. *Argonne Nat'l Laboratory,* 984 F.2d 1467, 1471-72 (7th Cir. 1993). Even read liberally, Plaintiff s complaint contains no allegations that Defendants took any discriminatory actions in relation to any contract or contractual obligation involving Plaintiff. Thus, Plaintiff's complaint fails to state a § 1981 claim upon which relief can be granted.

C. 42 U.S.C. § 1983

42 U.S.C. § 1983 provides a cause of action for deprivation of federally protected rights, privileges and immunities. To state a cause of action under § 1983, a plaintiff must state sufficient facts to establish that a "person" (as defined by the statute) acted under color of state law and deprived the plaintiff of a right secured by the constitution and laws of the United States. ***West v. Atkins,*** 487 U.S. 42, 48 (1988).

The theory of liability in a § *1983 discrimination* case is that discrimination on the basis of race, sex or religion constitutes a deprivation of equal protection and, therefore, violates the fourteenth amendment to the U.S. Constitution. A plaintiff in a § 1983 discrimination suit must ***allege intentional*** discrimination directed against plaintiff because of plaintiff' s membership in a particular *class* (as opposed to mere unfair treatment of plaintiff as an individual). ***Huebschen v. Dept. of Health and Human Services,*** 716 F.2d 11 67, 1171 (1983).

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3. The filing of a charge with the Equal Employment Opportunity Commission is a prerequisite to commencement of a Title VII suit in United States District Court. ***Rush v. McDonald's Corp.,*** 966 F.2d 1104,1110 (7th Cir. 1992). The scope of a subsequent judicial proceeding is limited by the scope of the charge filed with the EEOC. *Id.*

Plaintiffs complaint -- as it exists at this time -- contains insufficient allegations to support a § 1983 claim. First, Plaintiff's complaint contains no allegations that Defendants' allegedly discriminatory actions were based on her membership within an identifiable class or group (such as women doctors or Asian-American doctors).

Second, the Supreme Court has held that neither a state, nor its officials acting in their "official" capacities, are "persons" within the meaning, of § 1983. *Will v. Michigan Dept. of State Police,* 491 U.S. 58, 71 (1989). Here, three named Defendants (the State, the Department and the Board) do not fall within the definition of "person," and the complaint appears to contain no allegations directed against the five remaining Defendants in their individual capacities.

These pleading omissions are not necessarily a fatal defect, because Plaintiff may be able to amend her complaint to correct these deficiencies. Thus, unlike the Title VII and § 1981 claims (on which it appears Plaintiff *cannot* state a claim upon which relief may be granted), relief might be granted to Plaintiff on a § 1983 claim, if the complaint is amended properly and the facts are proved consistent with those allegations.[4]

IV. Conclusion

Accordingly, the Court **GRANTS** Defendants' motion to dismiss (Doc. 5). Plaintiff' s existing complaint is dismissed *without prejudice*. Plaintiff is granted 30 days from the date of this Order in which to file a First Amended Complaint. Failure to so amend may result in termination of this action. Plaintiff' s motion to quash (Doc. 7) is hereby **DENIED.**

IT IS SO ORDERED.
DATED this 6th day of December,1995.

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/s/ Paul E. Riley
Paul E. Riley
United States District Judge

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[4] Plaintiff s memorandum (Doc. 8) lists other possible bases for this action, but the Court's role is not to exhaustively analyze the potential bases for Plaintiff s lawsuit or to replead her complaint for her.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

YAVARACE YOUNG, M.D.,
Plaintiff,

FILED am
FEB 05 1996
STUART J. O'HARE
Clerk, U.S.District Court
Southern District of Illinois
East St. Louis Office

VS

STATE OF ILLINOIS;
ILLINOIS DEPARTMENT OF
PROFESSIONAL REGULATION;
ILLINOIS MEDICAL DISCIPLINARY
BOARD; NIKKI M. ZOLLAR, Director of Illinois Department
of Professional Regulation;
WILLIAM B. SHLIFKA, Chief of Medical Investigations;
ROBERT J. SCHAFER, M.D. Medical Coordinator;
STEVEN WAGY, Investigator;
and DAVE WALKER, Illinois State Police,
Defendants.

NO: 95-CV-0655-PER

ORDER

RILEY, **District Judge:**

On December 6, 1995, this Court entered an Order dismissing Plaintiff's complaint without prejudice and granting Plaintiff a thirty-day period in which to file a First Amended Complaint. Plaintiff was notified that failure to timely amend could result in termination of her action. Two days later, Plaintiff sent the Court (and copied opposing counsel in on) a letter which, *inter alia,* stated that Plaintiff needed extra time in which to file the First Amended Complaint. Aware of Plaintiff' s *pro se* status, the Court construed the letter as a motion for additional time in which to file her amended complaint, and granted a thirty-day extension. Thus, Plaintiff has until February 6, 1996 in which to file a proper First Amended Complaint.

On January 4, 1996, Defendants filed a document entitled "Objection to Correspondence" in which they complain that Plaintiffs December

4, 1995 letter appears to seek injunctive relief and contains self-serving, conclusory statements. Now, Plaintiff has filed a "Motion to Vacate" Defendant's "Objection." Plaintiff' s motion states: "An amended complaint is not a prerequisite for an injunctive relief." Plaintiff also insists that all of the documents previously filed with the Court (presumably, her original complaint) "are proper and must be kept as proper evidence."

The Court now rules on the pleadings before it and cautions the parties as follows. First, the Motion to Vacate Defendants' Objection (Doc. 13) is **DENIED.** Defendants are correct in stating that all correspondence with the Court should be in the form of proper pleadings, filed with the Clerk of this Court. Defendants, however, fail to credit the Court with the ability to overlook self-serving statements in a letter or pleading and glean the relief requested therein. That is precisely what the Court did in this instance, as the Court merely *construed* Plaintiff s letter as a motion for additional time.

Plaintiff is admonished that -- contrary to the statements in her latest motion -- the Court does not have any prior documents "properly" before it at this point, as her original complaint was dismissed on December 6, 1995. As the Court has stated in its prior Orders, Plaintiff must file a proper First Amended Complaint on or before February 6, 1996 or find her cause of action terminated.

IT IS SO ORDERED.

DATED this 5th day of February,1996.

/s/ Paul E. Riley
Paul E. Riley
United States District Judge

STATE OF ILLINOIS
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois, Complainant
V.
YAVARACE YOUNG
License No. 036-053991,Respondent

No. 93-4429-LEG

U.S.C.A.-7th Circuit
RECEIVED
CO MAY-7 1996
THOMAS F. STRUBBE
Clerk

20 DAY NOTICE

TO: YAVARACE YOUNG
2801 Brown Street
Alton, Illinois 62002

PLEASE TAKE NOTICE that the Medical Disciplinary Board of the Department of Professional Regulation of the State of Illinois, after hearing and considering evidence presented in the above case, has recommended Indefinite Suspension of your license to practice as a Physician and Surgeon in the State of Illinois. A copy of the Medical Disciplinary Board's Findings of Fact, Conclusions of Law and Recommendation is attached hereto.

YOU ARE HEREBY NOTIFIED that you have 20 days from the date this Notice is mailed to present to this Department your written Motion for a Rehearing. Said Motion shall specify the particular grounds for a Rehearing.

The Director of this Department may grant oral argument on this Motion if she deems it necessary for a clearer understanding of the issues presented.

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois

BY: /s/ David K.Igasaki
David K. Igasaki
Attorney for the Department

David K. Igasaki
Attorney for the Department
of Professional Regulation
of the State of Illinois
100 West Randolph Street
Suite 9-300
Chicago, Illinois 60601
312/814-2737

DKI:reu

STATE OF ILLINOIS
SS:
COUNTY OF COOK

The undersigned, being duly sworn on oath, states that on the date hereafter set out, I mailed copies of the foregoing NOTICE, FINDINGS OF FACT, CONCLUSIONS OF LAW, and RECOMMENDATION TO THE DIRECTOR, by depositing them in the United States mailbox located at 100 West Randolph Street, Suite 9-300, Chicago, Illinois 60601, and by mailing them by certified mail at 100 West Randolph, Chicago, Illinois 60601; to all parties at the addresses listed above.

/s/ Illegible Signature
AFFIANT

Subscribed and sworn to before me this
22nd day of April 1996

"OFFICIAL SEAL"
Edgelle L. Pettigrew
Notary Public, State of Illinois
My Commission Expires 06/19/99

/s/ Edgelle L. Pettigrew
Edgelle L. Pettigrew
Notary Public

STATE OF ILLINOIS
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois, Complainant

V. No. 93-4429-LEG

YAVARACE YOUNG, M.D.
License No. 036-053991, Respondent

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION TO THE DIRECTOR

Now comes the Illinois Medical Disciplinary Board of the Department of Professional Regulation of the State of Illinois ("Board") and, after conducting a hearing and reviewing the record in this matter, hereby makes the following Findings of Fact, Conclusions of Law and Recommendation to the Director:

FINDINGS OF FACT

1.That the Board adopts the Findings of Fact contained in the Report and Recommendation of Administrative Law Judge Shari Dam attached hereto, and incorporates them herein.

CONCLUSIONS OF LAW

1.That the Board adopts the Conclusions of Law contained in the Report and Recommendation of Administrative Law Judge Shari Dam attached hereto, and incorporates them herein.

RECOMMENDATION

Based on the above Findings of Fact and Conclusions of Law, the Illinois Medical Disciplinary Board recommends to Nikki M. Zollar, the Director of the Department, that Yavarace Young' s medical license, Certificate No. 036-053991, be indefinitely suspended, until such time as she produces all of the medical records previously requested by the Department and her patients.

Respondent is hereby placed on notice that if she violates any provision of the Medical Practice Act, such evidence may be used against her in any subsequent Petition for Restoration of her license as a physician and surgeon, Certificate No. 036-053991.

Dated this 17 th day of April , 1996.

Illegible name signature
Chairman

Illegible name signature
Illegible name signature
Illegible name signature
Illegible name signature

STATE OF ILLINOIS
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois, Complainant

V. No. 93-4429-LEG

YAVARACE YOUNG, M.D.
License No. 036-053991, Respondent

HEARING OFFICER'S REPORT AND RECOMMENDATION

This report is being filed with the Illinois Medical Disciplinary Board pursuant to Illinois Compiled Statutes, (1992), Chapter 225, Act 60, Section 35. The complete record of the proceeding was received by the Hearing Officer on March 27, 1996.

BACKGROUND

Yavarace Young ("Respondent") is a holder of a medical license issued by the Illinois Department of Professional Regulation ("Department"). Respondent's license is presently in active status.

On November 3, 1995, the Department filed a Complaint against Respondent and sent notice of said Complaint to Respondent by certified and regular mail to Respondent's last known address as registered with the Department: 2801 Brown Street, Alton, Illinois 62002. The Notice directed Respondent to appear at a Preliminary Hearing at the Department's offices in Chicago on December 11, 1995, at 9:30 a.m. Said certified receipt of Notice and Complaint was returned, bearing someone's signature.

The Complaint alleged that Respondent refused to release patients' medical records to a Department investigator and an Illinois State Police Officer when presented with properly executed releases.

The Respondent failed to appear, either in person or by counsel, for the preliminary hearing on December 11, 1995, or for a subsequent status hearing on January 29, 1996.

On December 11, 1995, Hearing officer Shari Dam ordered that Respondent file an Answer to the Department's Complaint on orbefore January 10, 1996, and sent notice thereof. The certified receipt of said order was returned signed, bearing someone's signature.

On January 29, 1996, Hearing Officer Shari Dam entered an order of default, for Respondent's failure to answer the Complaint and transferred the matter to the Illinois Medical Disciplinary Board on the pleadings.

On February 2, 1996, the Department received a letter from Respondent, dated January 8, 1996, requesting the order be vacated and asking for an indefinite postponement of this case until there was a resolution of a racial discrimination case she filed in federal court against the Department.

On February 5, 1996, the Department filed a Motion to Strike Respondent's Answer because Respondent's federal case had been dismissed on December 6, 1995.

On February 15, 1996 Hearing officer Shari Dam entered an order denying the Department's Motion to Strike, vacated the Order of default, ordered Respondent to Answer by February 27, 1996, and set the matter for formal evidentiary hearing on March 11, 1996.

On or about February 25, 1996, the Hearing Officer received another letter f rom the Respondent requesting a postponement of the March 11, 1996 formal hearing. On March 4, 1996, the Hearing officer sent, by regular and certified mail, a letter to Respondent stating that the hearing was going forward, unless she produced a court order staying the Department's proceeding.

On March 11, 1.996, a formal evidentiary hearing was held. Ms. Shari Dam presided as Hearing Officer along with Mr. Virgil Wikoff, a member of the Medical Disciplinary Board. The Department was represented by one of its attorneys, Mr. David Igasaki. Respondent was neither present nor represented by counsel.

EXHIBITS

The Department introduced the following exhibits into evidence:

Exhibit 1. Copy of a release form for medical records signed by patient Della Heaton and dated February 3, 1994.

Exhibit 2. copy of a release form for medical records for patients Karen, Richie and Cassandra Johnson, signed by their mother Sharon Pepper, and dated February 3, 1994.

Exhibit 3. Copy of a release form for medical records signed by patient Michelle Brooks and dated February 3, 1994.

Exhibit 4. Copy of a release form for medical records for patient Jessica Graves, signed by her mother Mary Graves, and dated February 15, 1994.

Exhibit 5. Copy of a release form for medical records for patient Michael Jones, signed by his mother Dara Hardman, and dated February 15, 1994.

Exhibit 6. Copy of a release form for medical records for patient Amanda Jones, signed by Jeannie Kelly, and dated February 5, 1994.

Exhibit 7. Copy of a release form for medical records for patient Shawn Kelly, signed by Jeannie Kelly, and dated February 5,1994.

Exhibit 8. Copy of a release form for medical records for patients Bessie, Lawrensia and Josie Burgess, signed by Bessie Burgess, and dated February 15, 1994.

Exhibit 9. Copy of a release form for medical records for patients Kathlyn and Kirk Pollard, signed by Brandy Pollard, and dated February 15, 1994.

Exhibit 10. Copy of a release form for medical records for patient Klara Evans, signed by Serena Evans, and dated February 15, 1994.

Exhibit 11. Copy of a release form for medical records signed by patient Shirley Hardiman, and dated February 15, 1994.

Exhibit 12. Copy of a release form for medical records for patient Jessica Graves, signed by her mother Mary Graves, and dated February 15, 1994.

Exhibit 13. Copy of a release form for medical records signed by patient Dorothy Lyons, and dated September 16, 1993.

Exhibit 14. Copy of a formal request by the Department to turn over the medical records to the Medical Investigations Unit of the Department.

Exhibit 15. Copy of a civil action filed by Respondent against the State of Illinois and the Department, filed August 29, 1995, in federal court.

Exhibit 16. A copy of an order entered February 15, 1996, by Hearing officer Shari Dam, ordering Respondent to Answer and setting the matter for formal hearing on March 11, 1996, mailed by certified and regular mail on February 16, 1996.

FINDINGS OF FACT

1. THAT Respondent is licensed to practice medicine in the State of Illinois. Said license is presently in active status.

2. THAT on November 3, 1995, the Department filed a complaint against Respondent alleging that Respondent failed to release medical records to the Department even though the respective patients had signed proper authorization and release forms.

3. THAT on January 29, 1996, Hearing Officer Shari Dam entered an Order of Default against Respondent for failure to Answer.

4. THAT on February 15, 1996, Hearing Officer Shari Dam vacated the Order of Default and ordered the Respondent to file an Answer on or before February 27, 1996. Said order was mailed by regular and certified mail to Respondent at the address on her stationery, which is the same address registered with the Department.

5.THAT on March 11, 1996, the matter proceeded to formal evidentiary hearing. Ms. Shari Dam presided as Hearing Officer together with Mr.Virgil Wikoff, a member of the Medical Disciplinary Board. The Department was represented by one of its attorneys, Mr. David Igasaki. The Respondent was not present, although she had notice of the hearing as evidenced by her February

25, 1996, letter to the Hearing office, wherein she again asked for a postponement.

6. THAT at the formal hearing Respondent's letter, dated January 8, 1996, and received by the Department on February 2, 1996, was construed to be Respondent's Answer and a general denial of the allegations.

7. THAT to-date Respondent has failed to release all of the patients' medical records upon presentation of written authorization, and despite several requests to do so.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Hearing Officer makes the following Conclusions of Law:

1. THAT the Medical Disciplinary Board has jurisdiction over the subject matter of this case.

2. THAT the Department proved the allegation contained in the Complaint by clear and convincing evidence, in that Respondent refused to turn over patients' medical records, upon presentation of properly executed release forms, in violation of Illinois Compiled Statutes (1992), Chapter 225, Act 60, Section 22A (38).

RECOMMENDATION

Based on the above Findings of Fact and conclusions of Law, the Hearing officer recommends to the Illinois Medical Disciplinary Board that Yavarace Young's medical license, Certificate No. 036-053991, be indefinitely suspended, until such time that she produces all of the various records previously requested by the Department and her patients.

Respondent is hereby put on notice that, if she violates additional provisions of the Medical Practice Act while disciplined, such information may be presented by the Department during any hearing on the Petition for Restoration of her license, Certificate No. 036-053991.

Dated: March 28, 1996

Respectfully submitted:
/s/ Shari Dam
Shari Dam, Hearing Officer

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

JUDGMENT- WITHOUT ORAL ARGUMENT

Date: April 8, 1997

BEFORE:

Honorable RICHARD A. POSNER, Chief Judge
Honorable MICHAEL S. KANNE, Circuit Judge
Honorable DIANE P. WOOD, Circuit Judge

No. 96-1958
YAVARACE YOUNG, M.D.,
Plaintiff - Appellant

V.

STATE OF ILLINOIS, ILLINOIS DEPARTMENT OF PROFESSIONAL REGULATION, ILLINOIS MEDICAL DISCIPLINARY BOARD, et al.,
Defendants - Appellees

Appeal from the United States District Court for the Southern District of Illinois, East St. Louis Division
No. 95 C 655, Paul E. Riley, Judge

The judgment of the District Court is AFFIRMED in part, and the appeal is DISMISSED in part. The above is in accordance with the decision of this court entered on April 7, 1997. The Appellant shall bear the costs in this appeal.

(AO 450 (Rev. 5/85) Judgment in a Civil Case

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

YAVARACE YOUNG, M.D.,
Plaintiff,

FILED am

APR 02 1996
STUART J. O'HARE
Clerk ,U.S.District Court
Southern District of Illinois
East St. Louis Office

V

STATE OF ILLINOIS, et al.,
Defendants.

JUDGMENT IN A CIVIL CASE
CASE NUMBER: 95-655-PER

[ ] Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

[X] Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that this cause of action is hereby Dismissed with prejudice pursuant to an Order of this Court filed April 1, 1996 -------

April 2,1996
Date

STUART J. O'HARE
Clerk

Approved:

/s/ Paul E. Riley
Paul E. Riley
United States District Judge

/s/Annie McGraw
Annie McGraw
(by) Deputy Clerk

Fourteenth Amendment of U.S. Constitution [1868]

1). All persons born or nationalized in the United States, and subject to the jurisdiction thereof, are citizens of The U.S.A. and of the State where they reside

2). No States shall make or enforce any law which shall abridge the privileges or immunities of citizens of the U.S.A.

3). Nor shall any State deprive any person of life, liberty,or property without due process of law;

4). Nor deny to any person within its jurisdiction the equal protection of the laws.

Eleventh Amendment of U.S. Constitution [1798]

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

42 U.S.C.A. § 1981 Equal rights under the law;

(a) Statement of equal rights : All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind,and to no other. (b) For purposes of this section, the term 'make and enforce contracts' includes the making, performance, modification, and termination of contracts, and the enjoyment of all benifits, priviledges, terms, and conditions of the contractual relationship.

42 U.S.C.A § 1983 "civil action for deprivation of rights"

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, priviledges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

42 U.S.C.A. § 1985 (3) conspiracy to interfere with civil rights
If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privilege and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitle to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a member of congress of the United States: or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

Title VII of the Civil Rights Act of 1964 prohibits against employment discrimination.

Illinois State Law under 775 ILCS 5/1-102 (F). Implimentation of Constitutional Gaurantees ; to secure and guarantee the rights established by Section 17, 18, 19 of Article I of the Illinois Constitition of 1970, and **775 ILCS 5/1-102 (G)** Equal Opportunity, Affirmative Action ; to establish Equal opportunity and Affirmative Action as the policies of this State in all of its decisions, programs and activities, and to assure that all State departments, boards, commissions and eliminate the effects of past discrimination in the internal affairs of State goverment and in their relations with the public.

Medical Practice Act of 1987, 225 ILCS 60/10 (B)
The Department shall:
(B) Effectuate the policy of the State of Illinois that the quality of medical training is an appropriate concern in the recruiting, licensing, credentialing and participation in residency programs of physicians. However, it is inappropriate discriminate against any physician because of national origin or geographic location of medical education.

Medical Practice Act of 1987, 225 ILCS 60/22 (A) (38)
Ground number 38 is one of 38 grounds for Disciplinary action:
Failure to furnish the Department, its investigators, representatives, relevant information legally requested by the Department after consultation with the Chief Medical Coordinator or the Deputy Medical Coordinator.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FILED

95 AUG 29 AM 9:42
STUART J. O'HARE
Clerk ,U.S.District Court
Southern District of Illinois
East St. Louis Office

Yavarace Young, M.D.)
Plaintiff)

) Case No. 95-655-PER
-vs-)
)
Defendants

1. State of Illinois
2. Illinois Department of Professional Regulation
3. Illinois Medical Disciplinary Board
4. Nikki M. Zollar, Director of Illinois Department of Professional Regulation
5. William B. Shlifka, Chief of Medical Inyestigations
6. Robert J. Schafer, M.D., Medical Coordinator
7. Steven Wagy, Investigator
8. Dave Walker, Illinois State Police

RACIAL AND GENDER DISCRIMINATION COMPLAINT

State of Illinois is defined as all officers, employees, contractors, subcontractors, operators, investigators, consultants, all other agencies, personnel, including all departments operated under State of Illinois and anyone associated with this group in the conduct of their business.

The Illinois Department of Professional Regulation is defined as all officers, employees, contractors, subcontractors, operators, investigators, consultants, all other agencies, personnel, including Illinois Medical Disciplinary Board, and anyone associated with this group in the conduct of their business.(The abbreviation of IDPR will be used for Illinois Department of Professional Regulation).

Nikki M. Zollar, William B. Shlifka, Steven Wagy, Robert J. Schafer,M.D. are employees and/or officers and/or contractors and/or subcontractors and/or consultants of IDPR.

Dave Walker is an Illinois State Police, an officer of State of Illinois, and/or contractor and/or subcontractor and/or consultant of IDPR.

State of Illinois is responsible and liable for all actions and conducts of its employees and/or officers and/or subcontractors, and/or consultants, and any other agencies associated with the State of Illinois in the conduct of its business.

The following information is provided to substantiate my claim that the IDPR has discriminated against me. The IDPR has not acted in good faith in their ongoing "investigation'. Based on their conduct, investigative practices, and ambiguity, their malicious intent is apparent.

The following specifics, rationale, and justification are provided:

1. I am an Asian American which places me in a minority category.

2. I am of female gender.

3. I am a female physician which places me in a minority among male dominated medical profession.

4. I am a foreign medical graduate and have postgraduate medical training in U.S.A.

5. I am practicing medicine in the "Inner City economically poor population," Alton,Illinois.

6. The majority of my patients are women, children, African-American and socio-economically disadvantaged population.

7. My business address is 2801 Brown Street, Alton, Illinois 62002. Telephone number is 618/463-0059.

8. State of Illinois and IDPR are fully aware of the facts numbers 1 through 7.

9. On February 15,1994, I was visited by two individuals who claimed that they represented State of Illinois officials. They came to my office during business office hours without prior notification and interupted my practice. I was shock and stunned by their visit. They did not properly identify themselves.I was not confident that they were genuine officers who representd the State of Illinois officials. I inquired to the purpose of their visit and asked them whether there was any complaint or allegation against me. They answered me that there was no complaint or any allegation against me .They also told me that they were conducting a **"Random investigation"** to identify fraud and abuse in medical system.

10. The reference to **"Random investigation"** is of special significance. Random is defined in Webster's Collegiate Dictionary 1993 as 1 a: lacking a definite plan, purpose, or pattern b: made, done, or chosen at random 2. has equal probability of occurrence (~ sample).

They did not explain the rationale utilized in their selection of individuals to be investigated. A random investigation without predetermined criteria to obtain equal probability of occurrence is in fact an indication of selective investigation. **I strongly believe that skin color and/or gender were their deciding factors.** It is my contention that I was specifically chosen which is **flagrant discrimination.**

11. **Based on my research and my review of "Act 60. Medical Practice Act of 1987," I cannot identify a provision to allow any conduct of random investigation. This again suggests a discriminatory practice.**

12. Since this episode started on February 15,1994, **I received four pieces of correspondences from IDPR (a letter from Nikki M. Zollar,dated February 24,94, a letter of William B Shlifka dated March 4,1994, a letter of Dr. Robert J. Schafer dated March 10,1994 and a Notice of Informal Conference from Mr. David K. Igasaki dated August 4,1995).** Dr. Robert J. Schafer, medical coordinator requested me to release medical records of several of my patients which I provided to the best of my ability. However, the paramount fact is that they have not provided me with the information I requested; any specific reason for their investigation; any complaints or allegations ; any evidence of complaints ; any evidence of wrongdoing. In general their correspondences have been total ly ambiguous and non-informative. Based on their lack of specific cause, I must assume that there is in fact no reasonable cause and no ground that justifies their actions. This indicates discriminatory motivation and discriminatory action.

13. Following an unannounced visit of the two individuals of Illinois State official on February 15,1994 (They are identified later by IDPR as Mr. Dave Walker, Illinois State Police and Mr. Steven Wagy from Medical Disciplinary Board), I have made a complaint to their superiors. This may result in an adverse effect toward me. In as much as I have received no specific allegations or any statement of wrongdoing on my part (as discussed in item number 12) , the possibility of fabrication exists.This could of course relate to any subject addressed in this complaint and this is a serious concern.

14. In my letter of March 1,1994, addressed to Nikki M. Zollar , I requested several information. However as of this date, IDPR has failed to provide me any and all information requested. This is the evidence of their unilateral investigative approach; verified their lack of good faith; and once again points to discrimination.

15. IDPR did not act in good faith. They chose to discuss about me with my patients without my knowledge. I was later informed by several of my patients that the two individuals who represented State of Illinois official went to their homes without prior notification. They contacted my patients in an effort to acquire information on my competency. The investigative practices of the IDPR represent a lack of ethics and lack of good faith. They have been deceptive, unprofessional, unethical and have employed the "gestapo" type activities,i.e., going in to people's homes without prior notification and arrangement, consulting with my patients without my knowledge, etc. They created fear among my patients. Their reactions have serious damage to my professional reputation; undermined my credibility with my patients; resulted in a loss of revenue by virtue of referrals from other physicians, the loss of existing patients and acquiring new patients. They have caused me mental anguish, stress, distress, pain and suffering in a variety of forms,i.e.aggravation, frustration, nervous and anxiety , fear of abuse, fear of injustice, fear of uncertainty, fear of unknown. They have deprived me of peace, happiness and freedom. In addition it undermined my faith in my fellow human beings, created uncertainty in my life and had adverse effect on my family life and the impact has virtually been enormous and endless.

16. On August 7,1995, I received a notice of informal conference from Mr.David K. Igasaki, attorney at law for IDPR, requested me to attend an informal conference on August 30,1995 at IDPR office in Springfield. The purpose was identified as a meeting to discuss

> "BRIEF STATEMENT OF ALLEGED VIOLATIONS: On or about February 25,1994, respondent refused to furnish medical records lawfully requested by investigators of the Illinois Department of Professional Regulation"

At this point I totally lose faith in the IDPR and its officers. The IDPR has falsified the fact.The records in questions were actually requested in a letter dated March 10,1994 and I received the letter on March 14,1994. I subsequently sent them on March 22,1994 via U.S. Post office express mail.

17. The scope and authority of the IDPR appear to have no bounds. By virtue of their seemingly endless resourses ; the fact that they are the single authority regarding various physician subjects ; their position within the overall reporting structure of the Illinois State government, it is impossible to obtain equality, fairness and justice in dealing with this group. They appear to have the luxury of virtually no accountability of their actions. The result of this situation is that emotion, personal preference, bias and prejudice influence their decisions and actions.Malicious acts and discrimination are permitted to prevail.. The IDPR investigative process places me in a lose/ lose situation. This is due in part to the totally disregard for confidentiality displayed by the IDPR. It is substantiated in part by the fact that they chose to hold discussion with my patients without my knowledge. This type of action is a manifestation of their basic mentality and attitude that one is assumed guilty until proven innocent. This contradicts to fundamental concept of American Justice System. Furthermore, the IDPR has overwhelming power which derived from various State of Illinois Statutes. **Although they are an "enforcement" agency , i.e., empowered to enforce the laws of the state, they operate in a fashion that portray as a court of law. The basic flaws in this process are that they are not a court of law ; their actions and decisions are unilateral; they do not make information available in the form of a public record; there is no legal precedent for their actions; the decision and judgement are made among their peers, not the peers of the accused; the accused has not given an opportunity to reply and finally the accused has no right whatsoever.**

18. Each individual American citizen has the right to be free from aggression, abuse , domination and discrimination of others and authorities. Being a woman of oriental descent and a minority place me in the disadvantaged position . I am a victim of racial and gender discrimination. It is impossible for me to receive justice from the State of Illinois and the IDPR. My last resouce is to seek justice in the Federal Court.

I respectfully request the court to assist me by taking the actions as follows:

1. enter the court order to compel the State of Illinois, the IDPR ,all defendants, their officers and/or any relating agencies to discontinue all investigation, and any actions related to and/or against Dr. Yavarace Young,M.D. until the resolution is reached by the court.

2. enter a court order to prohibit the State of Illinois ,the IDPR ,all defendants , their officers and /or any relating agencies from initiating any actions related to and/or against Dr. Yavarace Young,M.D. during pendency of court trial.

3. request complaint be resolved by jury trial.

4. make a judgement against all defendants , and--provide Dr.Yavarace Young , plaintiff with monetary compensation in the amount no less than $ 1,000,000 (one million U.S. dollars) for loss of professional consultation, loss of business revenue, damages to professional reputation and credibility, mental and physical suffering, legal expense and any relating litigation expense.

/s/ Yavarace Young, M.D.
8/29/95

Yavarace Young, M.D.
Pro Se, Plaintiff
2801 Brown Street
Alton, Illinois 62002
618/463-0059

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FILED

95 OCT 23 PM 12:16
STUART J. O'HARE
Clerk ,U.S.District Court
Southern District of Illinois
East St. Louis Office

Yavarace Young, M.D.)
Plaintiff)
)
) Case No. 95-655-PER
-vs-)
)
Defendants:

1. State of Illinois
2. Illinois Department of Professional Regulation
3. Illinois Medical Disciplinary Board
4. Nikki M. Zollar, Director of Illinois Department of Professional Regulation
5. William B. Shlifka, Chief of Medical Investigations
6. Robert J. Schafer, M.D., Medical Coordinator
7. Steven Wagy, Investigator
8. Dave Walker, Illinois State Police

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF' S MOTION TO QUASH THE DEFENDANTS' MOTION

Yavarace Young, M.D., Pro Se, Plaintiff hereby submits the following Memorandum of Law to support her motion to quash the defendants' motion.

I-A. The defendants' attorney makes a motion to dismiss the plaintiff's complaint pursuant to Federal Rule of Civil Procedure 12 (b) (6) and states "Plaintiff's complaint fails to state any claim for sexual or racial discrimination." This statement is incorrect. The interpretation as presented in the memorandum is bias and it is apparent that he did not adequately review my initial complaint . The complaint is the claim and there are 5 pages of claim for gender and racial discrimiration in my initial compaint. In addition, in Conley v. Gibson,355 U.S. 41,45-46 (1957), the Supreme Court admonished the lower federal courts

> "[A] conplaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his/her claim which would entitle him/her to relief."

I-B. I am an Asian American which is a member of racial minority class. I am of female gender which places me in the inferior and disadvantaged status among the well known, long lasting legacy of the white malesupremacy society. All defendants are fully aware of these facts.

I-C. As I mentioned in the complaint filed earlier with the court that the two individuals who claimed that they represented State of Illinois officials cameto my office unannounced, did not properly identify themselves, interupted my practice during business office hours on February 15,1994. They stated that they conducted "Random Investigation" and requested to see and get medical records and billing records of several of my patients. A "Random Investigation" without predeermined criterias to obtain equal probability of occurrence is an indication of selective investigation.I strongly believe that I am a target of their "Random Investigation" because of my identity of being a racial minority and of female gender. This is of course flagrnt discrimination.

I-D. Following the incident on February 15,1994, I have made a complaint to Ilinois Department of Professional Regulation(IDPR). Nikki M. Zollr, Director of IDPR appointed William B. Shlifka, Chief of Mdical Investigation, to be in the investigation team.William B. Shlifka later identified that one individual was Mr.Dave Waler,Illinois State Police and Mr. Steven Wagy was from Medical Disciplinary Board. To the best of my knowledge I have done nothing wrong that I am aware of and there have been no allegations or any complaint against me. Mr. Dave Walker and Mr. Steven Wagy confirmed these facts at the time of their unannounced visit to my office on February 15,1994. However, they continued conducting investigation and later on March 10,1994, Dr. Robert J. Schafer, Medical Coordinator, sent me a letter requested me to release medical records of several of my patients which I provided to the best of my ability. In as much as I have not been provided with any specific reason for their investigation, the possibility of fabrication exists and this is my serious concern.

I-E. Investigation without justified causes or grounds is the indication of intentional discrimination. Investigation without the goal as to the specific things that they are looking for indicates that the defendants are on **"fishing expedition."** This again exhibits bad faith with malicious intent. Investigation without informing the accused or the adversary about the nature and cause of their investigation indicates bad faith, unfair and unilateral process. These method and manner of investigations open a gateway to the defendants the many opportunities to fabricate, manufacture the accusations, or do anything related to investigation. The investigative practices of the defendants represent a lack of ethics and lack of good faith. They have been deceptive, unprofessional, and unethical. Mr. Dave Walker and Mr. Steven Wagy have employed the "gestapo" type activities , and chose to discuss with many of my patients about my credibility without my knowledge and consent. This indicates a lack of confidentiality. The defendants intentionally engaged in concerted efforts to discriminate against me because of my race and gender by using investigation as a discriminatory device. Apparently, I have been systematically railroaded.

I-F. Based on my research and review of the "Medical Practice Act of 1987" I cannot identify a provision to allow any conduct of "Random Investigation" or "Investigation" without grounds. The defendants intentionally use "Investigation" as a discriminatory tool to discriminate against me because of my gender and racial minority. Section 22 of the Medical Practice Act of 1987 contains 38 grounds of violation to justify for their actions. It does not contain the provision to investigate "potential" violations. I have not made any offense or violated any of the 38 grounds of section 22. However, the defendants and their attorney state "The Illinois Department of Professional Regulation is, by statute, empowered to investigate potential violation of Section 22 of the Medical Practice Acts of 1987" in their memorandum to dismiss the case.

I-G. According to Black's Law Dictionary, the word "potential" means existing in possibility but not in act, naturally and probably expected to come into existent at some future time, though not now existing. Potential violation by its definition represents discriminatory practice. Substantial evidence is not required to initiate a potential investigation. There is no reliable predictive criteria that can be used to identify individual with potential violation. This becomes a subjective decision, and therefore can only be discrimination. It is my contention that the defendants have placed me in the "suspect class" because of my gender and race. This again indicates intentional discrimination against gender and racial minority. Burdening, creating harm and depriving me because of my national origin or status as a member of a racial minority run against the most fundamental concept of equal protection of the laws.

I-H. The defendants' intentionally discriminatory practices are self-evidence truths. Intentionally discriminatory practices can be substantiated by statistical disparity, historical background of the decision, general background of the defendants' practices, and patterns of their conducts and behaviors. The defendants and their attorney have full access to the information of their own behaviors, conducts , practices, and overall activities. The deviation from the normal procedural sequence afford evidence that discriminatory purposes are playing a role. The motion to dismiss the cause number 95-655-PER is too premature, unjust and in general it would prohibit the discovery process require for trial. A complete discovery of all of the facts regarding the defendants' behaviors, conducts and practices is necessary. Therefore,the motion to dismiss should not be granted. Furthermore, the defendants' attorney states "There is no basis in law for plaintiff's racial and discrimination claim.Accordingly, plaintiff's complaint should be dismissed." This statement is totally incorrect. There are many laws that prohibit racial and gender discrimination . The laws that can be used as a basis for my claim will be described in sections I-I. to I-O.

I-I. Section 1. of the Fourteenth Amendment states

> "All persons born or naturalized in the United States and subject to jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

I-J. 42 U.S.C.A. section 1981 provides a basis for individuals to bring racial and gender dicrimination claim. 42 U.S.C.A. section 1981 states

> "Equal rights under the law; (a) Statement of equal rights : All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind,and to no other. (b) For purposes of this section, the term 'make and enforce contracts' includes the making, performance, modification, and termination of contracts, and the enjoyment of all benifits, priviledges, terms, and conditions of the contractual relationship."

The provision of 42 U.S.C.A. section 1981 (a) provides "protection of equal rights under the law" and therefore it provides the basis for my claim of gender and racial discrimination. Webster's Dictionary defines a word "contract" to mean "a binding agreement." Eventhough, I do not have a written contract on the paper, the fact is

Illinois Department of Professional Regulation ,by statute is the only agency in Illinois authorized to issue medical licenses, and licenses to the many professions and occupations ; I am automatically bound to the rule, regulation, and requirement of IDPR in order to obtain my medical license as such my medical license has become a contract which I receive from IDPR when I have fulfilled the requirement agreement .Without medical license I am not permitted to practice medicine in the State of Illinois. Therefore, the provision in 42 U.S.C.A. section 1981(b) provides a basis for my claim as well.

I-K. 42 U.S.C.A section 1983 civil action for deprivation of rights states

> "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, priviledges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia."

I-L. 42 U.S.C.section 1985 (3) contains a provision to prohibit depriving person of rights or privileges states

> "If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privilege and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitle to vote, from giving his support or

advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a member of congress of the United States: or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators."

I-M. an employee of the license issuing authority by default. As I mentioned earlier that Illinois Department of Professional Regulation (IDPR) is the only agency who has the authority by virtue of State of Illinois Statute to issue licenses to the many professions and occupations . The physicians including I are Title VII of the Civil Rights Act of 1964 prohibits against employment discrimination. Although, I am not an employee per se, however by virtue of State goverment Statute and Regulation, one becomes not permitted to practice without medical licenses, as such it could be determined that the employer-employee relationship exists. The basic effect and academic outcome are no different to me than to a typical employer-employee situation. This is substantiated by the fact that I am required to fulfilled the basic requirement, qualifications, maintain various standard and efficiency and can be subjected to evaluation.I believe that the court always finds a way to make a creative utilization of the laws to make it just and fair.

I-N. Illinois State Law under 775 ILCS 5/1-102 (F). Implimentation of Constitutional Gaurantees ; to secure and guarantee the rights established by Section 17, 18, 19 of Article I of the Illinois Constitition of 1970, and 775 ILCS 5/1-102 (G) Equal Opportunity, Affirmative Action ; to establish Equal opportunity and Affirmative Action as the policies of this State in all of its decisions, programs and activities, and to assure that all State departments, boards, commissions and eliminate the effects of past discrimination in the internal affairs of State goverment and in their relations with the public.

I-O. Medical Practice Act of 1987, 225 ILCS 60/10 (B) provides a provision to prohibit discrimination agaist any physician because of national origin or geographic location of medical education. This also can be used as a basis for my claim of racial discrimination.

II. The defendants' attorney states in his memorandum

> "plaintiff's complaint against the State of Illinois, Illinois Department of Professional Regulation, the Illinois Medical Disciplinary Board, Nikki Zollar, William Shlifka and Robert Schafer are not 'persons' under 42 U.S.C.A. section 1983."

The immunity claim under 42 U.S.C.A. section 1983 is subjected to interpretation by the court on an individual case basis. As such I disagree with the determination of defendants' attorney. Regardless of the implication of the immunity claim under 42 U.S.C.A. section 1983 , this becomes only a very small piece of a much larger picture. In addition, this does not eliminate the racial and gender discrimination provision of Section I, Fourteenth Amendment of the Constitution, 42 U.S.C.A section 1981, 42 U.S.C.A.section 1983 (a), 42 U.S.C.A. section 1985, Title VII of the Civil Rights Act of 1964, 775 ILCS 5/1-102 (A), (F), (G) and 225 ILCS 60/10 (B). Therefore all defendants identified in my initial complaint should not be dismissed .

III. The defendants'attorney states in his memorandum "plaintiff has failed to allege the requisite personal involvement of defendants Zollar, Shlifka and Schafer." His claim is incorrect. Nikki Zollar, William Shlifka and Robert Schafer do not just sit in the office and write correspondences. Their line of authority has already been established. They are in the investigation team. All defendants work in the concerted efforts to discriminate against me and continue conspiring just to keep the investigation alive for more than one and a half years. This discriminatory investigation is motivated and created on purpose, not by accident. They are willing to violate the many laws that they sworn to uphold just to keep the investigation going in order to satisfy their discriminatory motivation and harm me. Therefore , all defendants are subjected to racial and gender discrimination claim under the provisions of the many laws described in section I of this memorandum.

IV. The defendants' attorney states in his memorandum "plaintiff has failed in her burden of showing grounds for injunctive relief." This statement is not true. The grounds for injunctive relief was clearly written in my original complaint. I respectfully request the court to grant me the injunctive relief as stated in the original complaint. The request can be substantiated as followed :

1.) I have adequately demonstrated in my complaint that the discrimination exists. In addition, the law is very clear in providing remedy to resolve the discrimination cases.

2.) Irreparable harm has already transpired as discussed in my original complaint. To disallow injunctive relief will only serve to compound the situation in the form of pain, suffering, anger, anxiety, stress, distress and monetary loss etc., as described in my original complaint.

3.) The basic fact is that the damages have been done, injunctive relief is paramount to limiting the irreparable harm which I suffered and will continue to suffer if the injunctive relief is not granted.

4.) Although the case has adequate merits to prevail, the injunctive relief is required to preclude further damages and in the interest of fairness and in the overall complaint process. It is very dangerous to allow the defendants to continue their investigation. I will never be able to receive fairness and justice from them .Many accusations might be created to justify their wrongdoings in the first place. The investigation has been used by the defendants as a discriminatory device against me from the very beginning. It is a violation of laws. By allowing the defendants to investigate is equivalent to allowing them to continue to violate the laws.

5.) The injunctive relief will not harm the public and has no impact on the public interest. Investigation of potential violation is discrimination as already discussed in section I of this motion. As potential investigation related to public interest, it can only be determined that they are counter productive when unsubstantiated. This is evidenced by the negative impact on my patients, creating fear, and uncertainty etc. The defendants have utilized hard earned taxpayer money to pursue their personal agenda which result in discriminatory effect in the name of public interest The majority of my patients are women, children, Africal Americans and socio-economically disadvantaged population. My patients are the public and in fact they have benefited from my medical practice. The defendants' conducts are harmful to me and to my patients as well. The citation of the cases in Defendents' memorandum is irrelevant and not applicable to my case.

On page 6 of memorandum of the defendants' attorney, he makes another incorrect statement again that "plaintiff fails to make any allegation as she has lost patients due to the allegedly improper investigation." I would like to refer him back to my original complaint. Apparently, he totally ignores the claims in my original complaint.

It is my legal right to seek justice in the federal court since suing in State court is a conflict of interest when Illinois State and State officials are the defendants in the lawsuit. Furthermore, I have faith in the federal justice system and the federal court has a reputation of enforcement of Constitution law and discrimination law.

Respectfully submitted,

/s/ Yavarace Young,M.D
Yavarace Young,M.D., Pro Se, Plaintiff
2801 Brown Street
Alton, Illinois 62002
618 / 463-0059

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FILED

96 FEB-5 AM 11:20
STUART J. O'HARE
Clerk ,U.S.District Court
Southern District of Illinois
East St. Louis Office

Yavarace Young, M.D.)
Plaintiff)

) Case No. 95-655-PER
-vs-)
)
Defendants:

1. State of Illinois
2. Illinois Department of Professional Regulation
3. Illinois Medical Disciplinary Board
4. Nikki M. Zollar, Director of Illinois Department of Professional Regulation
5. William B. Shlifka, Chief of Medical Investigations
6. Robert J. Schafer, M.D., Medical Coordinator
7. Steven Wagy, Investigator
8. Dave Walker, Illinois State Police

FIRST AMENDED COMPLAINT OF RACIAL AND GENDER DISCRIMINATION

"Illinois Department of Professional Regulation" is defined as all officers, employees, contractors, subcontractors, investigators, consultants, all other agencies, personel, including Illinois Medical Disciplinary Board, and anyone associated with this group in the conduct of their business (The abbreviation of IDPR will be used for Illinois Department of Professional Regulation).

The word "Defendants" is defined as all the eight named defendants as shown above.

The word "State officials" is defined as unknown and un-named individuals, officers, employees, contractors, subcontractors, investigators, consultants, all other agencies, personel or anyone who work in consert with the above named defendants.

The word " they" means all defendants and State officials.

The word "I" means plaintiff in this lawsuit.

Pursuant to the court order dated December 11,1995,Yavarace Young,M.D., Pro Se plaintiff is granted to file her first amended complaint on or before February 6,1996. Yavarace Young, M.D., Pro Se, plaintiff is hereby filing her first amended complaint and states as follows :

I The plaintiff' s original complaint, and memorandum attached to motion to quash defendants' motion to dismiss are considered admitted when not denied by defendants in their responsive pleading. Therefore, these documents are retained as evidential facts, and plaintiff would like to add these documents as a part of this amended complaint.

II Plaintiff' s correspondences previously filed with the court are the statements of the truths. Plaintiff would like to add these correspondences as a part of this amended complaint.

III The basic requirements for claims for relief are set forth in Rule 8(a) of the Federal Rule of Civil Procedure. The informations to fulfill the requirements of Rule 8(a) are provided as follows :

1. Plaintiff is a victim of racial and gender discrimination and an aggrieved party. Intentionally discriminatory practices with discriminatory effects on the part of defendants, Illinois Department of Professional Regulation (IDPR), and Illinois State officials

violate the Fourteenth amendment of the United States Constitutional law (28 U.S.C. section 1331).

2. The followings are the statements of the claim showing that the pleader (Plaintiff) is entitled to relief.

2(a) The defendants, and State officials work in conserted efforts in their intentionally discriminatory practices against me because I am a racial minority and female gender. They have placed me in the **"suspect class."** Their intentionally discriminatory practices with discriminatory effects have violated my fundamental right guaranteed the fourteenth amendment of the United States Constitutional law.

2(b) The intentionally discriminatory practices, conducts and method of investigative approach on the part of defendants and State officials have caused serious damages on me; created fear and uncertainty among my patients; undermined my reputation and credibility; resulted in a loss of revenue by virtue of the loss of referrals from other physicians, the loss of existing patients and the loss of acquiring new patients.

2(c) The intentionally discriminatory practices on the part of defendants, and State officials have caused me mental anguish, stress, distress, losing my faith in my fellow human beings, pain and suffering in a variety of forms, i.e. bitterness, humiliation, insult, aggravation, frustration, nervous, anxiety, fear of abuse, fear of injustice, fear of uncertainty, and fear of unknown. The traumatized impact on me has virtually been enormous and endless. They have deprived me of mental and physical well being, peace, happiness, freedom and financial resource.

2(d) The conducts, manner, and methodology used in their investigative approach are discriminatory and **violate my right to privacy.**

2(e) The defendants, and State officials have placed me in **"suspect class"** because I am an Asian-American, a member of racial minority, and female gender, thus they label me as a

"Potential Violator", subjected to their **"Random Investigation."** The defendants and State officials have been using discriminatory tools/devices such as **"Random Investigation, Investigation on no grounds, Investigation of Potential Violation and collection of Medical records" in their intentionally discriminatory practices against me** in order to harm me by all means, including taking my medical license away from me.

2(f) The defendants and State officials have abused, misused, and administered the law i.e. Section 22 of Medical Practice Act 1987 in discriminatory fashions in that they initiated investigation of **"Potential violation"** in pursuant to their own discriminatory motivation against me when there is no provision of law or Statute that allow them to conduct such action. Their intentionally discriminatory practices have burdened my life both physical and mental; wasted my time and my financial resourse; counter productive and finally I may lose my medical license which is my property.

2(g) The defendants and State officials have applied and administered the Illinois Statute Section 22(A)(38) in discriminatory fashion. The request for patients' medical records is the discriminatory tool/device that the defendants and State officials have skillfully used in their intentionally discriminatory practices against me. The term "relevant information" in Section 22(A) (38) is a subjective term when there is no allegation against me prior to their request of medical record and prior to their initiation of their investigation. They interpreted the word "relevant information" as being the "medical records" in pursuant to their own discriminatory motivation. I have been systematically victimized by intentionally discriminatory practices on the part of the defendants and State officials.

2(h) During the pendency of the federal court proceeding, IDPR sent me the request for a hearing at IDPR office and preliminary hearing before the administrative law judge with a false allegation that I did not send them the medical records. They threatened to sanction, suspend and/or revoke my medical license if I did not comply with them. This again indicates that they **have violated my fundamental right guaranteed by the Fourteenth amendment of The United States Constitutional law.** As a result of their actions, I may lose my medical license and can no longer practicing medicine in the State of Illinois.

The followings are the information to substantiate my claims:

The conducts, manner, and methods used by the defendants and State officials in their investigative practices are deceptive, unprofessional, unethical and discriminatory. They have been practicing under the veil of secrecy but lack of confidentiality. By this I mean that they keep things secret from me, but running around to several of my patients' homes without prior notification, **telling my patients that I have been under investigation,** inquiring my patients about medical treatment and questioning my patients about my professional conduct and competency, etc. without my knowledge and consent.

Defendants and State officials have intentionally been using the discriminatory devices/tools such as **"Random Investigation, Investigation on no grounds, Investigation of potential violation and collection of medical records" in their discriminatory practices** against me because I am **a woman and a racial minority.** These very same **discriminatory devices/tools** serve as the **shield** to cover up **their discriminatory motive and discriminatory practices.** Furthermore, Random investigation, investigation of potential violation and medical records issue are apparently **"smoke and mirrors"** attempts on the part of defendants and State officials toward a **genuine issue of intentional discrimination.**

The defendants and their attorney stated "The Illinois Department of Professional Regulation is by statute, **empowered to investigate potential violation** of Section 22 of the Medical Practice Acts of 1987" in their memorandum to dismiss the case. I have not made any offense or violated any of the 38 grounds of Section 22. **There is no provision of law, rule or statute of any kind that allow the conduct of "Random Investigation" or "Investigation without**

ground" or "Investigation of Potential Violation." There is no reliable predictive criteria that can be used to identify individual with potential violation in advance. The fact that the defendants and state officials chose to investigate me on a **"Random"** basis indicates that they have placed me in the **"suspect class"** because I am an **Asian-American, and female gender. A female individual of racial minority is considered to be suspected and potential violator in the eyes of the defendants and State officials.** This again indicates that I have been intentionally discriminated against because of my race and gender.

Collection of Medical records is another discriminatory tool/ device which defendants and State officials have been using in their intentionally discriminatory practices against me. On March 10,1994, Dr. Robert J. Schafer, Medical Co-ordinator sent me a letter requested me to release medical records of several of my patients. I subsequently sent them the medical records to the best of my ability on March 22,1994. In his letter dated March 10,1994, the medical record were requested pursuant to Section 22(A) (38) of Medical Practice Act. The reason for their request was not given in spite of several of my requests for their actions. My serious concern is the possibility of fabrication and/or manufacturing of any evidence to justify their wrongdoings in the first place.

On August 7,1995, I received a notice of informal conference from Mr. David K. Igasaki, attorney for IDPR, requested me to attend an informal conference on August 30,1995 at IDPR office in Springfield. The purpose was identified as a meeting to discuss

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At this point, I totally lost faith in IDPR and State officials. IDPR has falsified the fact and made the wrong allegation. On August 28,1995, I wrote a letter to Mr. David K. Igasaki, attorney for IDPR, explaining him that the requested medical records were sent to the best of my ability. The defendants and State officials have overwhelming power and unlimited resourses. Although they are an "enforcement" agency, i.e., empowered to enforce the laws of the State, they operate in a fashion that portray as a court of law. The basic flaws in this process are that they are not the court of law: their actions and decisions are unilateral; they do not make their information in the form of public record; there is no legal precedent for their actions; decision and judgement are made among their peers, not the peers of the accused; the accused has not given the opportunity to reply; the accused person is presumed guilty until proven innocent which is contradict to American justice system, and finally the accused has no right whatsoever. It is impossible to acquire justice and fairness in dealing with the defendants and State officials. These are the very basic reasons that I have to seek justice in the federal court in order to afford an impartial judge to acts as a referee in the proceedings; and be permitted the opportunity to prove my claims in the court of law, before a panel of impartial juries. It is not my desire to hurt anyone, however, I believe that every American citizen is entitled to fairness, equal treatment and justice.

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> "Failure to furnish the Department, its investigators, representatives, **relevant** information legally requested by the Department after consultation with the Chief Medical Coordinator or the Deputy Medical Coordinator."

Relevant information in Section 22(A) (38) of the Medical Practice Act 1987 becomes a subjective term in this instance as there was no charge against me, and no allegation prior to their initiation of investigation and prior to their request for the medical records. The law appears to be **neutral and fair on its face,** however it is **intentionally applied, and administered in a discriminatory fashion against me by the defendants and State officials.** They are sophisticated discriminators and skillfully use medical record issue as a discriminatory tool/device in their discriminatory practices.

During the pendency of the federal court proceedings, defendants and State officials are keeping on using discriminatory tools/devices such as **investigation, request for a hearing at IDPR office and request for preliminary hearing before the Administrative law judge** with a false allegation that I did not send them the medical record and they threatened to sanction, suspend and/or revoke my medical license if I did not comply with their request. **Their actions demonstrate that they have not changed their discriminatory intent; continue conducting intentionally discriminatory practices against me; circumvent the authority of the federal court; disregard pretrial procedure; and continue violating the constitutional law in pursuing their discriminatory practices against me.**

The **request for a hearing at IDPR** office and **request for preliminary hearing before the administrative judge** on January 29,1996 are **the technique that** defendants, and State officials **use to deceptively portray as the due process of law.** However, it is not the due process in the concept of the Constitutional law, for example; IDPR office is not a court of law; the decision and /or judgement are unilateral, it is not made by the panel of impartial juries, the juries of peers of the accused. This lawsuit is in the category of federal question. When there is a question as to what procedures are required to assure fundamental fairness, it is a federal constitutional question to be decided by the federal court; it is not determined by the state law. Furthermore the request for a hearing was made after I filed a lawsuit with the federal court.

The defendants and State officials' intentionally discriminatory practices are self-evidence truths. Generally, no discriminators will admit that they conduct intentionally discriminatory practices. Their actions and practices demonstrate their intention. Actions always speak louder than words. The fact that the defendants and State officials continue discriminatory practices and keep discriminatory investigation alive for almost two years indicates their discriminatory purpose. An accident may happen once or twice but a persistent and continual actions indicate their intention. The use of discriminatory tools/devices in their practices also indicates their discriminatory intention. Statistical disparity, historical background of the decision, general background of their practices, and patterns of their conduct, behaviors will serve as additional proofs of my claims upon the discovery process.

WHEREFORE, Yavarace Young, M.D., Pro Se, Plaintiff respectfully request the court to take actions as follows:

1. Issue an Immediate protective injunctive relief to prohibit defendants, State officials and any relating agency from continue and/or initiate any action related to and/or against plaintiff until the decision is reached by the court, and void all previous actions related to and/or against plaintiff until the final decision is reached by the court.

2. allow plaintiff the discovery process in order to discover the unknown, and un-named State officials or any individual who work in consert with the defendant in this ordeal.

3. allow the complaint to be resolved by Jury Trial.

4. allow plaintiff the opportunity of discovery process, and pre-trial procedure in order to prove her complaint in the court of law.

5. make a judgement against defendants, and State officials and award plaintiff with monetary compensation in the amount no less than $ 1,000,000 (one million U.S. dollars) for loss of professional consultation, loss of business revenue, damages to professional reputation and credibility, mental and physical suffering, legal expense and relating litigation expense.

I pray the court to issue an immediate protective injunctive relief as stated in number 1. The basic purposes of this request is provided as follows:

1.) My claims have merits to prevail. There is no remedy of law existed outside of the federal court. The U.S.constitutional law is very clear in providing remedy to resolve the the discrimination cases.

2.) Irreparable harm has already transpired. To disallow a protective injunctive relief will only serve to compound the situation in the form of pain, sufferimg, anger, anxiety, stress, distress, monetary loss and loss of medical license which is my property. Without Illinois Medical license, I cannot practice medicine in Illinois. Medical profession is a profession that requires an on-going process of practicing and studying medicine in order to stay abreast with the latest and the most advances in Medicine and medical practices.It is very important for medical doctor to continue practicing medicine in order to retain and improve his/her medical knowledge, skill and expertise in providing high standard quality medical care for the patients, otherwise the medical knowlege, skill, and expertise will be permanently lost. Once it lost, it can hardly be recovered or replaced. In addition, the threats of sanction, suspension, and/or revocation of my medical license based on the request of medical records for "Random investigation," and the request of medical record with a false allegation that I did not send them the records can only be described as vindictive, bias, abuse of power. The defendants and State officials must be required to justify their actions too.

3.) The basic fact is that the damages have been done, the protective injunctiove relief is paramount to limiting the irreparable harm which I have suffered and will continue to suffer if the protective injunctive relief is not granted. By virtue of the continual and persistent actions of IDPR, the defendants and State officials and failure of the court to issue a protective injunctive relief, I have been continually placed in the totally disadvantaged position. This is unfair, unjust and I continue to be hurt before I ever have an opportunity to further prove my complaint in the court. This situation is no different than letting the fox guarding a henhouse.

4.) Although the case has merits to prevail, the protective injunctive relief is required to preclude further damages; to allow legal process to proceed in the federal court in an equitable manner that will protect the overall integrity of the evidences submitted; to prevent the defendants and State officials from attempts to circumvent the authority of the federal court; and to allow me the opportunity to further prove my complaint in the court of laws and before a panel of impartial juries.

5.) The protective injunctive relief will not harm the public. It only has a positive impact on the public interest. I have been practicing medicine for almost 20 (twenty) years. I find a great deal of satisfaction in providing medical care to those most in need. I strive to provide my patients with the best possible care regardless of their race, gender, position or status in society, or ability to pay. The majority of my patients are women, children, African-Americans, socio-economically disadvantaged population and some working individuals who do not have medical insurance. Unlike many of my collegues, I am not wealthy, I am only a small town doctor. However, success and contentment cannot be measured in material wealth. I have been very happy, living in a very simple life. My goals are to maintain the highest possible ethical standards; to be professional and honest; to provide the best medical care to the patients with kindness and compassion; to comply with rules& regulations established for my profession; and to excercise commonsense moral code by doing good , do no harm, and keep peace of mind. My patients are the public, and my patients benefit from my medical practices.

Random investigation and investigation of potential violation by the defendants, IDPR and State officials are discrimination, and counter-productive when unsubstantiated. Their actions have negative impact on public interest and my patients as evidenced by creating fear, uncertainty among my patients.

Although, I am experiencing extremely difficult problem, I am nonetheless very fortunate in many respects. I am grateful to become an American citizen and to live in this beautiful and wonderful country. I am thankful for the freedom that I enjoy in America. The fact that I am permitted to communicate with the court is an example of the true meaning of **"life, liberty and pursuit of happiness."** Because of my personal commitment to contribute to our beloved country by utilizing my medical skill and knowledge in medical practice to benifit our fellow Americans; my sincerity; my devotion to my patients and my profession. I find the intentionally discriminatory practices of the defendants, IDPR and State officials to be devastating. The question is **"how much more I am expected to do in order to gain a recognition as being an American."**

Respectfully submitted,

/s/ Yavarace Young,M.D 2/5/96
Yavarace Young,M.D., Pro Se, Plaintiff
2801 Brown Street
Alton, Illinois 62002
618 / 463-0059

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FILED

96 FEB-6 AM 11:33
STUART J. O'HARE
Clerk ,U.S.District Court
Southern District of Illinois
East St. Louis Office

Yavarace Young, M.D.)
Plaintiff)

) Case No. 95-655-PER
-vs-)
)
Defendants:

1. State of Illinois
2. Illinois Department of Professional Regulation
3. Illinois Medical Disciplinary Board
4. Nikki M. Zollar, Director of Illinois Department of Professional Regulation
5. William B. Shlifka, Chief of Medical Investigations
6. Robert J. Schafer, M.D., Medical Coordinator
7. Steven Wagy, Investigator
8. Dave Walker, Illinois State Police

ADDENDUM OF FIRST AMENDED COMPLAINT OF RACIAL AND GENDER DISCRIMINATION

The addendum is initiated in order to provide the court with most current information on the continual, persistent, and independent actions on the part of the defendants, IDPR and State officials. I apologize for any inconvenience this may cause.

The followings are the additional statements of the claim showing that the pleader (Plaintiff) is entitled to relief and will be call subparagraph 2(i).

2(i) After the filing of the first amended complaint with the court on February 5,1996, I received a notice of "order of default for failure to appear or answer and to transfer the matter to the board on the pleadings" from Mr. David Igasaki, attorney for IDPR. The allegation was "the respondent having previously been ordered to appear and file an answer and having fail to do so". The fact is on January 8,1996, I sent **an answer** to honorable Shari Dam, Administrative Law Judge in response to her "order to answer or be held in default." In my answer, I explained her about my situation;and requested an arrangement with IDPR for a copy of the **"Rules of practice in Administrative Hearings"** to be sent to me; and requested to postpone the "status of hearing" until such time that the final decision of my claim is made by the federal court. As of this date, I have not received a copy of the **"Rules of practice in Administrative Hearing"** from IDPR. In addition, the defendants, IDPR and State officials continue their discriminatory practices against me by totally disregard my request, and holding me in default for failure to appear or answer, and further transfered the matter to the Medical Disciplinary Board(one of defendants in this lawsuit). **Their current actions served to confirm my claim of intentionally discriminatory practices against me** by the defendants, IDPR and State officials in order to harm me by all means and proceed to revoke my medical license which is **my property.** During the pendency of this lawsuit, they have been using the technique, i.e. request for preliminary hearing, and internal affair of administration in IDPR's office in order to deceptively portray as the due process in the court of law. **However, their continual actions and decisions are motivated from their basic background intent of racial and gender discrimination.** Their intentionally discriminatory practices against me demonstrate that **they continue violating the due process and equal protection clauses of the Fourteenth Amendment of the U.S. Constitutional law.** The defendants, IDPR, and State officials have unlimited amount of resources and power; they appear to answer to no one; and they are totally unregulated. They simply operate in a unilateral manner with the attitude that they are **"above the law". They have been violating and continue violating the U.S. Constitutional law right before the eyes of the federal court.**

Only this federal court with subject matter and personal jurisdiction would have an authority to order the defendants, IDPR and State officials not to proceed with any action against me and void all previous actions and decisions against me.

I am a victim of discrimination, and aggrieved party. I have been suffering from pain, aggravation, frustration, harassment, wasting of time, financial loss and may even loss my medical license etc. as a result of intentionally discriminatory practices against me by the defendents, IDPR, and State officials. The defendants, IDPR, State officials must be required to justify their actions and they must be required to provide the evidences to support their defense. For the purpose of fairness and justice, both defendants and plaintiff have equal burden of proof in the court of law.

I once again pray the court to issue an immediate protective injunctive relief as requested in the first amended complaint.

Respectfully submitted,

/s/ Yavarace Young,M.D. 2/6/96

Yavarace Young,M.D.,
Pro Se, Plaintiff
2801 Brown Street
Alton, Illinois 62002
618/463-0059

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FILED

96 FEB 20 AM 11:28
STUART J. O'HARE
Clerk ,U.S.District Court
Southern District of Illinois
East St. Louis Office

Yavarace Young, M.D.)
Plaintiff)

) Case No. 95-655-PER
-vs-)
)

Defendants:

1. State of Illinois
2. Illinois Department of Professional Regulation
3. Illinois Medical Disciplinary Board
4. Nikki M. Zollar, Director of Illinois Department of Professional Regulation
5. William B. Shlifka, Chief of Medical Investigations
6. Robert J. Schafer, M.D., Medical Coordinator
7. Steven Wagy, Investigator
8. Dave Walker, Illinois State Police

MEMORANDUM TO SUPPORT MOTION FOR PROTECTIVE INJUNCTIVE RELIEF FOR PLAINTIFF

"State of Illinois" is defined as all officers, employees, contractors, subcontractors, operators, investigators, consultants, all other agencies, personnel, including all departments operated under State of Illinois and anyone associated with this group in the conduct of their business.

"Illinois Department of Professional Regulation" is defined as all officers, employees, contractors, subcontractors, investigators, consultants, all other agencies, personel, including Illinois Medical Disciplinary Board, and anyone associated with this group in the conduct of their business (The abbreviation of IDPR will be used for Illinois Department of Professional Regulation).

The word "Defendants" is defined as all the eight named defendants as shown above.

The word "State officials" is defined as unknown and un-named individuals, officers, employees, contractors, subcontractors, investigators, consultants, all other agencies, personel or anyone who work in consert with the above named defendants.

The word "they" means all defendants and State officials.

The word "I" means plaintiff in this lawsuit.

I respectfully request the court to issue an immediate protective injunctive relief as described in the motion and hereby provide the court the memorandum to support my motion as follow:

1.) My claims in the lawsuit have merits to prevail. There is no remedy of law existed outside of the federal court. The U.S.Constitutional law is very clear in providing remedy to resolve the discrimination cases. The right to have access to the courts in each state is protected by equal protection clause as well as rights deemed to be "fundamental" because these rights are expressly protected by the United States Constitution or its amendments or are held to be fundamental rights for the purposes of due process and equal protection analysis. Only this federal court that has the jurisdiction to issue an immediate protective injunctive relief to the victimized plaintiff.

2.) Plaintiff will suffer irreparable harm in an absence of injunctive relief.

Irreparable harm has already transpired. I am a victim of racial and gender discrimination and an aggrieved party. Intentionally discriminatory practices with discriminatory effects on the part of defendants, Illinois Department of Professional Regulation (IDPR), and Illinois State officials violate my fundamental right guaranteed by the Fourteenth amendment of the United States Constitutional law (28 U.S.C. section 1331). The defendants, and State officials work in conserted efforts in their intentionally discriminatory practices against me because I am a racial minority and female gender. They have placed me in the "suspect class," targeted me for their "Random Investigation."

On February 15,1994, I was visited by two individuals who claimed that they represented State of Illinois officials. These two individuals came to my office during business office hours without prior notification and interupted my practice. I was shock and stunned by their visit. These two individuals did not properly identify themselves. I was not confident that they were genuine officers who represented the State of Illinois officials. I inquired to the purpose of their visit and asked these two individuals whether there was any complaint or allegation against me. These two individuals answered me that there was no complaint or any allegation against me. These two individuals also told me that they were conducting a "Random investigation" to identify fraud and abuse in medical system. Upon my inquiry to IDPR, these two individuals were identified as one individual being Mr. Dave Walker, Illinois State Police and another being Steven Wagy, Investigator, but IDPR did not provide me with any information to justify the actions of these two individuals.

The defendants, IDPR, and State officials did not act in good faith. They intentionally engaged in the concerted efforts to discriminate against me because of my race and gender. These two individuals chose to discuss about me with my patients without my knowledge. I was later informed by several of my patients that the two individuals who represented State of Illinois officials went to their homes without prior notification. These two individuals went to see my patients from home to home, telling my patients that I have been under investigation. These two individuals also discussed with my patients in an effort to acquire information on my competency. The conducts, manner, and methods used by the defendants and State officials intheir investigative practices are deceptive, unprofessional,unethical and discriminatory. They have been practicing under the veil of secrecy but lack of confidentiality. By this I mean that they keep things secret from me, but running around to several of my patients' homes without prior notification, telling my patients that I have been under investigation, inquiring my patients about medical treatment and questioning my patients about my professional conduct and competency, etc. without my knowledge and consent. The intentionally discriminatory practices, conducts and method of investigative approach on the part of defendants and State officials have caused serious damages on me; created fear and uncertainty among my patients; undermined my reputation and credibility; resulted in a loss of revenue by virtue of the loss of referrals from other physicians, loss of the existing patients, and reduction in acquiring the new patients.

The intentionally discriminatory practices on the part of defendants, and State officials have caused me mental anguish, stress, distress, losing my faith in my fellow human beings, pain and suffering in a variety of forms, i.e. bitterness, humiliation, insult, aggravation, frustration, nervous, anxiety, fear of abuse, fear of injustice, fear of uncertainty, and fear of unknown. The traumatized impact on me has virtually been enormous and endless. They have deprived me of mental and physical well being, peace, happiness, freedom and financial resource and they are pursuing to take my medical license away. To disallow a protective injunctive relief will only serve to compound the situation in the form of pain, suffering, anger, anxiety, stress, distress, monetary loss and loss of medical license which is my property.

3.) the irreparable harm suffered in the absence of injunctive relief outweighs the irreparable harm the defendants will suffer if the injunction is granted.

The protective injunctive relief is requested for the purpose of providing the victimized and traumatized plaintiff with a protection against intentionally discriminatory practices on the part of the defendants and State officials during the pendency of the lawsuit; it is the only remedy to stop the intentionally discriminatory conducts and practices on the part of the defendents and State officials. The protective injunctive relief will also benefit the defendants and State officials once the discriminatory practices are stopped. It is a lot of saving for Illinois State in term of saving taxpayer money, time and human resourse. It is not only a saving of State budget but also Federal Fund which is set aside to be used by State of Illinois.

The basic fact is that the damages have been done, the protective injunctive relief is paramount to limiting the irreparable harm which I have suffered and will continue to suffer if the protective injunctive relief is not granted. By virtue of the continual, persistent and independent actions on the part of IDPR, the defendants and State officials and failure of the court to issue a protective injunctive relief, I have been continually placed in the totally disadvantaged position. I am now at risk of danger of losing my Illinois Medical License which is my property.This is unfair, unjust and I continue to be hurt before I ever have an opportunity to further prove my complaint in the court of law. This situation is no different than letting the fox guard a henhouse. Although, I am not an employee per se, however by virtue of State goverment Statute and Regulation, one becomes an employee of the license issuing authority by default. Illinois Department of Professional Regulation (IDPR) is the only agency who has the authority by virtue of State of Illinois Statute to issue licenses to the many professions and occupations. The physicians including I are not permitted to practice without medical licenses. Losing medical license is worse than losing the job. Since one can always find a new job, but without medical license, a physician can no longer get a job. It is a death of medical profession as well as the death of the medical license holder.

Medical profession is a profession that requires an on-going process of practicing and studying medicine in order to stay abreast with the latest and the most advances in Medicine and medical practices. It is very important for medical doctor to continue practicing medicine in order to retain and improve his/her medical knowledge, skill and expertise in providing high standard quality medical care for the patients, otherwise the medical knowlege, skill, and expertise will be permanently lost. Once it lost, it can hardly be recovered or replaced. In addition, the threats of sanction, suspension, and/or revocation of my medical license based on the request of medical records for "Random investigation," and the request of medical record with a false allegation that I did not send them the records can only be described as vindictive, bias, abuse of power and intentional discrimination. The defendants and State officials must be required to justify their actions too.

4.) the moving party has a reasonable likelihood of prevailing on the merits;

Although the case has merits to prevail, the protective injunctive relief is required to preclude further damages; to allow legal process to proceed in the federal court in an equitable manner that will protect the overall integrity of the evidences submitted; to prevent the defendants and State officials from attempts to circumvent the authority of the federal court; to allow me the opportunity to further prove my complaint in the court of laws and before a panel of impartial juries; to protect me from losing my medical license as a result of unfair, abuse and intentionally dicriminatory practices of the defendants, IDPR and State officials during the pendency of this lawsuit.

Defendants and State officials have intentionally been using the discriminatory devices/tools such as "Random Investigation, Investigation on no grounds, Investigation of potential violation and collection of medical records" in their discriminatory practices against me because I am a woman and a racial minority. These very same discriminatory devices/tools serve as the shield to cover up their discriminatory motive and discriminatory practices. Furthermore, Random investigation, investigation of potential violation and medical records issue are apparently "smoke and mirrors" attempts on the part of defendants and State officials toward a genuine issue of intentional discrimination.

The defendants and their attorney stated "The Illinois Department of Professional Regulation is by statute, empowered to investigate potential violation of Section 22 of the Medical Practice Acts of 1987" in their memorandum to dismiss the case. I have not made any offense or violated any of the 38 grounds of Section 22. There is no provision of law, rule or statute of any kind that allow the conduct of "Random Investigation" or "Investigation without ground" or "Investigation of Potential Violation." There is no reliable predictive criteria that can be used to identify individual with potential violation in advance. No one in this world possesses the psychic power of knowing the individual who will or/ will not violate the law in advance. The fact that the defendants and state officials chose to investigate me on a "Random" basis indicates that they have placed me in the "suspect class" because I am an Asian-American, and female gender. A female individual of racial minority is considered to be suspected and potential violator in the eyes of the defendants and State officials. This again indicates that I have been intentionally discriminated against because of my race and gender.

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According to my recent legal research and review, Section 22(A) (38) is one of the 38 grounds for their actions and states

> "Failure to furnish the Department, its investigators, representatives, relevant information legally requested by the Department after consultation with the Chief Medical Coordinator or the Deputy Medical Coordinator."

Relevant information in Section 22(A) (38) of the Medical Practice Act 1987 becomes a subjective term in this instance as there was no charge against me, and no allegation prior to their initiation of investigation and prior to their request for the medical records. The law appears to be neutral and fair on its face, however it is intentionally applied, and administered in a discriminatory fashion against me by the defendants and State officials. They are sophisticated discriminators and skillfully use medical record issue as a discriminatory tool/device in their discriminatory practices.

During the pendency of the federal court proceedings, defendants and State officials are keeping on using discriminatory tools/devices such as investigation, request for a hearing at IDPR office and request for preliminary hearing before the Administrative law judge with a false allegation that I did not send them the medical record and they threatened to sanction, suspend and/or revoke my medical license if I did not comply with their request. Their actions demonstrate that they have not changed their discriminatory intent; continue conducting intentionally discriminatory practices against me; circumvent the authority of the federal court; disregard pretrial procedure; and continue violating the U.S. Constitutional law in pursuing their discriminatory practices against me.

The request for a hearing at IDPR office and request for preliminary hearing before the administrative judge on January 29,1996 are the technique that defendants, and State officials use to deceptively portray as the due process of law. However, it is not the due process in the concept of the U.S. Constitutional law, for example; IDPR office is not a court of law; the decision and /or judgement are unilateral, it is not made by the panel of impartial juries, and the juries of peers of the accused. Furthermore the request for a hearing at IDPR office was made after I filed this lawsuit with the Federal court.

After the filing of the first amended complaint with the court on February 5,1996, I received a notice of "order of default for failure to appear or answer and to transfer the matter to the board on the pleadings" from Mr. David Igasaki, attorney for IDPR. The allegation was "the respondent having previously been ordered to appear and file an answer and having fail to do so." The fact is on January 8,1996, I sent an answer to honorable Shari Dam, Administrative Law Judge in response to her "order to answer or be held in default." In my answer, I explained her about my situation;and requested an arrangement with IDPR for a copy of the "Rules of practice in Administrative Hearings" to be sent to me; and requested her to postpone the "status of hearing" until such time that the final decision of my claim is made by the federal court. As of this date, I have not received a copy of the "Rules of practice in Administrative Hearing" from IDPR. In addition, the defendants, IDPR and State officials continue their discriminatory practices against me by totally disregard my request, and holding me in default for failure to appear or answer, and further transfered the matter to the Medical Disciplinary Board (one of defendants in this lawsuit). Their current actions served to confirm my claim of intentionally discriminatory practices against me by the defendants, IDPR and State officials in order to harm me by all means and proceed to revoke my medical license which is my property. Their continual actions and decisions are motivated from their basic background intent of racial and gender discrimination.

The defendants, IDPR, and State officials have unlimited amount of resources and power; they appear to answer to no one; and they are totally unregulated. They simply operate in a unilateral manner with the attitude that they are "above the law." They have been violating and continue violating the U.S. Constitutional law right before the eyes of the federal court. This lawsuit is in the category of federal question. When there is a question as to what procedures are required to assure fundamental fairness, it is a federal constitutional question to be decided by the federal court; it is not determined by the state law.

If the federal courts allow each State to practice its own way, what the use of having the U.S. Constitutional law as the law of the nation. The constitutional law is supreme.

By virtue of failure of the court to grant me (plaintiff) a protective injunctive relief, the court has given a seal of approval for the defendants and State officials to continue their discriminatory practices.

The defendants and State officials' intentionally discriminatory practices are self-evidence truths. Generally, no discriminators will admit that they conduct intentionally discriminatory practices. Their actions and practices demonstrate their intention. Actions alway speak louder than words. The fact that the defendants and State officials continue discriminatory practices and keep discriminatory investigation alive for almost two years indicates their discriminatory purpose. An accident may happen once or twice but a persistent and continual actions indicate their intention. The use of discriminatory tools/devices in their practices also indicates their discriminatory intention. Statistical disparity, historical background of the decision, general background of their practices, and patterns of their conduct, behaviors will serve as additional proofs of my claims upon the discovery process.

5.) The protective injunctive relief will not harm the public. It only has a positive impact on the public interest. I have been practicing medicine for almost 20 (twenty) years. I find a great deal of satisfaction in providing medical care to those most in need. I strive to provide my patients with the best possible care regardless of their race, gender, position or status in society, or ability to pay. The majority of my patients are women, children, African-Americans, socio-economically disadvantaged population and some working individuals who do not have medical insurance. Unlike many of my collegues, I am not wealthy, I am only a small town doctor. However, success and contentment cannot be measured in material wealth. I have been very happy, living in a very simple life. My goals are to maintain the highest possible ethical standards; to be professional and honest; to provide the best medical care to the patients with kindness and compassion; to comply with rules and regulations established for my profession; and to excercise commonsense moral code by doing good, do no harm, and keep peace of mind. My patients are the public, and my patients benefit from my medical practices.

As I have mentioned earlier the majority of my patients are women, children, African-Americans, socio-economically disadvantage population and other minorities. These segments of population have difficulty of accessing to adequate health care. The intentional discriminatory practices against me on the part of defendants,State officials and IDPR hurt me and are harmful to me as well as to my patients who are the member of racial minorities and of female gender. It is in fact a double discrimination. Random investigation and investigation of "potential violation" by the defendants, IDPR and State officials are discrimination, and counter-productive when unsubstantiated. It is not only harmful to me and to the public, but also it is a waste of taxpayer money, state budget, Federal fund which comes to State of Illinois, time and human resourse. Their actions create fear, nervous, anxiety and uncertainty among my patients. The overall actions and conducts on the part of IDPR, the defendants and State officials have negative impact on the public.

As a nation that pride itself on civilization, and advancement in Medicine, Science, Biomedical Research and technology, all of us also have a responsibility to care and be passionate toward others. Furthermore, we must get control of our lives, not by seeking wealth, sex, power and fame, but by attempting to remedy the evils and wrongs that we witness everyday.

Tolerance to intentionally discriminatory practices can only be interpreted as a way to promote the discriminatory acts and discriminators.

Pain and suffering are unique in that the feeling is personal. Only the one who is suffering can feel the pain. There is no word in the world that adequately describes the unbearable pain and suffering I am experiencing at this time. It is very difficult for someone to develop a total understanding of the degree of pain and suffering of another until those individuals experience the same circumstance. It requires the higher developed mind with the knowledge of kindness and compassion to have a sympathetic feeling toward others.

WHEREFORE, Yavarace Young,M.D., Pro Se, Plaintiff pray the court to demonstrate justice and grant Dr. Yavarace Young the protective injunctive relief as requested.

Respectfully submitted,

/s/ Yavarace Young, M.D. 2/20/96
Yavarace Young,M.D.,
Pro Se, Plaintiff
2801 Brown Street
Alton, Illinois
618/ 463-0059

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FILED

96 MAR 15 AM 11:13
STUART J. O'HARE
Clerk ,U.S.District Court
Southern District of Illinois
East St. Louis Office

Yavarace Young, M.D.)
Plaintiff)

) Case No. 95-655-PER
-vs-)
)

Defendants:

1. State of Illinois
2. Illinois Department of Professional Regulation
3. Illinois Medical Disciplinary Board
4. Nikki M. Zollar, Director of Illinois Department of Professional Regulation
5. William B. Shlifka, Chief of Medical Investigations
6. Robert J. Schafer, M.D., Medical Coordinator
7. Steven Wagy, Investigator
8. Dave Walker, Illinois State Police

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION TO STRIKE THE DEFENDANTS'MOTION TO DISMISS

"State of Illinois" is defined as all officers, employees, contractors, subcontractors, operators, investigators, consultants, all other agencies, personnel, including all departments operated under State of Illinois and anyone associated with this group in the conduct of their business.

"Illinois Department of Professional Regulation" is defined as all officers, employees, contractors, subcontractors, investigators, consultants, all other agencies, personel, including Illinois Medical Disciplinary Board, and anyone associated with this group in the conduct of their business (The abbreviation of IDPR will be used for Illinois Department of Professional Regulation).

The word "Defendants" is defined as all the eight named defendants as shown above.

The word "State officials" is defined as unknown and un-named individuals, officers, employees, contractors, subcontractors, investigators, consultants, all other agencies, personel or anyone who work in consert with the above named defendants.

The word " they " means all defendants and State officials.

The word " I" means plaintiff in this lawsuit.

The defendants' motion to dismiss plaintiff's First Amended Complaint of racial and gender discrimination was received in my office on Friday, March1,1996.

Yavarace Young, M.D., Pro Se, Plaintiff makes a motion to strike the defendants' motion to dismiss plaintiff's First Amended Complaint of racial and gender discrimination and submits the following Memorandum of Law in support of her motion to strike:

INTRODUCTION

The defendants and their attorney's memorandum to support their motion to dismiss my first amended complaint is a non-responsive pleading, incorrect, lacking in specific, ambiguous and insufficient as to do substantial justice. They have failed to provide any document, statement, or any evidence to support their defenses that they did not and have not conduct intentionally discriminatory practices against me as an individual who is a female Asian-American, a member of racial minority, and of female gender. The information in my first amended complaint and addendum is considered admitted when not denied by the defendants in their pleading. The defendants' statements items 1,2,3,and 4 in their motion to dismiss are incorrected, and basically a misrepresentation of the facts. The defendants ignored the claim.

In the introduction of memorandum to dismiss, the defendants and their attorney stated

> "The State of Illinois, pursuant to its police power, passed the Medical Practice Act of 1987 which specifically provides for the licensing, investigation, and discipline of doctors licensed by the State of Illinois. 225 ILCS 60/1, et seq. (hereinafter "the Act"). Pursuant to the Act, the Illinois Department of Professional Regulation and only the Department of Professional regulation is empowered to investigate and discipline medical doctors licensed by the State. In addition to the procedure set forth in the Medical Practice Act, medical disciplinary proceedings are also contained and codified in 68 Ill. Adm. Code, Ch. VII, Sec. 1285.200,et seq."

Every one must be mindful to the fact that there is no provision of law in either Medical Practice Act or State of Illinois Statute that allow State of Illinois, IDPR, the defendants and/ or state officials to conduct "Random Investigation, Investigation without ground, and Investigation of Potential violation." It is done without any reasonable basis and therefore is purely arbitrary and outright discrimination against me. As of this date, the defendants, State officials and IDPR are still not able to come up with any reason to justify their actions and conducts of their investigation. This also indicates that the defendants, IDPR and State officials have intentionally applied and administered the law in discriminatory fashion pursuant to their own discriminatory motivation against me.

The defendants, IDPR and State officials intentionally abuse, and misuse Police Power of State of Illinois in discriminatory fashion against me when there is no provision of law that allows them to exercise the conduct of "Random investigation, investigation without ground and/or investigation of potential violation" and impose burdens on me as a victim.

In the U.S.A., a land of laws respecting the God-given rights of the individual, there are laws and restrictions placed upon what the States and State officials can do. Under our laws, it is illegal for Illinois State, IDPR and State officials to send the two individuals in their official capacity to random investigate me in my office without prior notification & without reason and also run around to several of my patients' homes like the gestapo in Nazi Germany.

Following the incident on February 15,1994, I made a complaint to Nikki M. Zollar, Director of IDPR and inquired her about the identities&conducts of these two individuals and the reason, justification for their conducts. However, I have not been provided with any information to justify their conducts but only identify the two individuals. Nikki M. Zollar allows the investigation without ground to continue for more than two(2) years. This indicates that the defendants, IDPR, State officials work in conserted effort in their discriminatory practices against me.

Medical profession is the human activity undertaken to benefit mankind. God gave me the opportunity to go to medical school, to obtain the knowledge and to acquire the skills & ability to benefit others. This function should not/ must not be interfered or destroyed by the discriminatory actions of Illinois State, the defendants and IDPR and State officials. It is against God's will.

The defendants, IDPR and State officials have the full knowledge of my identity that I am a female, Asian-American physician, a racial minority, a microscopic racial minority. They have placed me in "suspect class" because I am an Asian-American, a member of racial minority, and female gender, thus they label me as a "Potential Violator" subjected to their "Random Investigation."

The fact that I am **a female Asian-American physician,** and IDPR, the defendants and State officials single me out and choose to investigate me on **"Random"** basis is an outright racial & gender discrimination when this type of investigation and practices are not done on **any white-male physician.**

The defendants and State officials have been using discriminatory tools/devices such as "Random Investigation, Investigation on no grounds, Investigation of Potential Violation and collection of Medical records" in their intentionally discriminatory practices against me in order to harm me by all means, including taking my medical license away from me. Their intentionally discriminatory practices against me and their conducts of investigation indicate that they have violated my fundamental right guaranteed by the Fourteenth Amendment of The United States Constitutional law, violated Federal law, Illinois Constitutional law and Illinois Medical Practice Act 1987.

On page 4 of the defendants' memorandum to dismiss, the defendants stated

> "The Act requires notice to be given to the physician of charges made and provides for a public hearing to present any statements, testimony, evidence, and argument relating to the charges."

Again, this provision of Medical Practice Act has not been practiced by the defendants, IDPR and State officials. The fact is the defendants, IDPR did not give me any notice of charges prior to their initiation of the conducts of investigation despite my repeatedly requested for the reason of their investigation.

Furthermore, the two individuals (who was later identified as Mr. Steven Wagy, investigator from Illinois Medical Disciplinary Board and Mr. Dave Walker, Illinois State Police) who came to my office during business office hours without prior notification on February 15,1994, confirmed to the fact that there was no complaint, no charge or any allegation against me and also told me that they were conducting a “Random investigation” to identify fraud and abuse in medical system.

Collection of Medical records is another discriminatory tool/ device which the defendants, IDPR and State officials have been using in their intentionally discriminatory practices against me. On March 10,1994, Dr. Robert J. Schafer, Medical Co-ordinator sent me a letter requested me to release medical records of several of my patients. I subsequently sent them the medical records to the best of my ability on March 22,1994. In his letter dated March 10,1994, the medical record were requested pursuant to Section 22(A) (38) of Medical Practice Act. The reason for their request was not given in spite of several of my requests for their actions. My serious concern is the possibility of fabrication and/or manufacturing of any evidence to justify their wrongdoings in the first place.

According to my recent legal research and review, Section 22(A) (38) is one of the 38 grounds for their actions and states

> “Failure to furnish the Department, its investigators, representatives, relevant information legally requested by the Department after consultation with the Chief Medical Coordinator or the Deputy Medical Coordinator”

Relevant information in Section 22(A) (38) of the Medical Practice Act 1987 becomes a subjective term in this instance as there was no charge against me, and no allegation prior to their initiation of investigation and prior to their request for the medical records. The law appears to be neutral and fair on its face, however it is intentionally applied, and administered in a discriminatory fashion against me by the defendants, IDPR and State officials. They are sophisticated discriminators and skillfully use medical record issue as a discriminatory tool/device in their discriminatory practices.

On August 7,1995, I received a notice of informal conference from Mr. David K. Igasaki, attorney for IDPR, requested me to attend an informal conference on August 30,1995 at IDPR office in Springfield. The purpose was identified as a meeting to discuss

> "BRIEF STATEMENT OF ALLEGED VIOLATIONS: On or about February 25,1994, respondent refused to furnish medical records lawfully requested by investigators of the Illinois Department of Professional Regulation."

At this point, I totally lost faith in IDPR and State officials. IDPR has falsified the fact and made the wrong allegation. On August 28,1995, I wrote a letter to Mr. David K. Igasaki, attorney for IDPR, explaining him that the requested medical records were sent to the best of my ability.

During the pendency of the federal court proceedings, defendants, IDPR and State officials are keeping on using discriminatory tools/devices such as investigation, request for a hearing at IDPR office and request for preliminary hearing before the Administrative law judge with a false allegation that I did not send them the medical record and they threatened to sanction, suspend and/or revoke my medical license if I did not comply with their requests. Their actions demonstrate that they have not changed their discriminatory intent; continue conducting intentionally discriminatory practices against me; circumvent the authority of the federal court; disregard pretrial procedure; and continue violating the constitutional law and many other laws in pursuing their discriminatory practices against me.

The request for a preliminary hearing at IDPR office on December 11,1995 and the request for hearing before the administrative law judge on January 29,1996 are the technique/ discriminatory tool that defendants, IDPR and State officials use to deceptively portray as the due process of law. However, it is not the due process in the concept of the Constitutional law, i.e. IDPR office is not a court of law; the decision and judgement are unilateral, it is not made by the panel of impartial juries, it is not made by the juries of peers of the accused, and no public record, etc. It is basically an internal affair of administration. State of Illinois, IDPR and State officials are the defendants in the lawsuit which I filed with the federal court on August 29,1995. This lawsuit is in the category of federal question. When there is a

question as to what procedures are required to assure fundamental fairness, it is a federal constitutional question to be decided by the federal court; it is not determined by the state law or by IDPR.

In addition, the fundamental fairness in constitutional concept requires the separated powers doctrine. Power is typically separated into 3 (three) branches: legislative, executive and judiciary which is totally different from administrative organization and structure in IDPR. According to the defendants' statement on page 4 (four) of their memorandum, the administrative organization in IDPR reveals that Investigative, Prosecuting and Judiciary functions are all performed by IDPR. This type of administrative structure of IDPR automatically makes IDPR a single agency of conbined powers which is contradict to the due process in constitutional law. This sort of combined powers also allows agencies to act more arbitrarily, to abuse, to misuse, to discriminate, to use adhoc solutions and sanctions rather than just resolution formally prescribed by standing law. Delegations of all 3 (three) powers to a single agency also degrade the rule of law. IDPR acts as a police, a prosecutor, and a judge at the same time. IDPR becomes a single agency with Super-Power.

Another question is: who is responsible for devising and enforcing certain standards, impartially judge a person whom it had charged with violating those standards?

Furthermore the request for a preliminary hearing was made approximately two and a half months after I filed a lawsuit with the federal court, and the request for a hearing before the administrative law judge in IDPR office was made approximately three and a half months after the discrimination lawsuit was filed with the federal court. It is impossible for me to obtain fairness and justice in dealing with them. Random investigation, investigation without ground and investigation of potential violation are the discriminatory tools/devices/instruments that they use in their practices to harm me, very much the same way as using iron shackle as a tool to keep slaves in captivity. They have chosen me for random investigation at their discretion. Apparently, the modern version of the old iron shackle such as Random Investigation, Investigation without ground, Investigation of Potential Violation, the Requests for hearing in IDPR office,etc. are the tools to shackle me and destroy me. Their discriminatory practices by the defendants, IDPR and State officials have stained the reputation of Illinois State, the Land of Lincoln.

I always and have been complied with law of the nation, Illinois Statute and Medical Practice Act 1987. To the best of my knowledge, I have not done anything wrong. I have made every effort to cooperate with them to the best of my ability. However, it is impossible for me to engage into any activities that will circumvent the authority & power of the federal court while discrimination lawsuit is still pending. In addition, I cannot submit myself to the discriminators who intentionally abuse and misuse the Police power of Illinois State to conduct "Random Investigation, Investigation without ground, and Investigation of Potential Violation, etc." on me. Regardless of a restraining order or injunction, it is the duty of every American citizen to obey the laws of the land. Unfortunately the law cannot execute on its' own, it requires an enforcement to make the powerful, and disobedient defendants, IDPR and State officials to act within the rule of the law. It is only this federal court that has the authority and jurisdiction to stop the powerful, stubborn, and disobedient defendants, IDPR and State officials from continue their racial and gender discriminatory practices against me, and to enforce the laws of the land.

1. INTENTIONALLY DISCRIMINATORY PRACTICES AGAINST PLAINTIFF DUE TO HER BEING A FEMALE, ASIAN-AMERICAN PHYSICIAN BY THE DEFENDANTS VIOLATE PROVISIONS OF THE FOURTEENTH AMENDMENT OF CONSTITUTIONAL LAW OF U.S.A.

It is very clear that the claim for racial and gender discrimination claim was stated in the First Amended Complaint. Even the defendants and their attorney recognized that there were derivation of "discrimination" no less than 44 times within the body of the complaint including headings but refused to accept it. Repetition stimulates visual and auditory responses, and also enhances memory. It was stated very clear that the defendants, IDPR, and State officials conducted intentionally discriminatory practices against me because of me being a female, Asian-American, a member of racial minority, and of female gender. The 11(eleven) pages of the First Amended Complaint contain statements of claim for relief and the detailed information which are provided as the basis of my claim. I have adequately described the actual conducts and behaviors of the defendants, IDPR and State officials to demonstrate that they intentionally discriminated against me because of my identity of being a female, racial minority. **The defendants have full access to information of their own behaviors and conducts. The behaviors are the products of their conscious choices which indicate their intentions. Upon discovery process, many information of the defendants' behaviors and conducts will come to light and of course will further support my claim of racial and gender discrimination. Their intentionally discriminatory practices against me violate my fundamental right guaranteed by the Fourteenth Amendment of Constitutional Law of U.S.A., violate Federal law, violate Illinois Constitution and violate Illinois Medical Practice Act 1987,etc.**

Many statements in the defendants' memorandum to dismiss are totally incorrect or partially correct and are self conclusionary i.e. defendants stated on page 6 of their memorandum "Plaintiff alleges that she is wrongfully being investigated by the Department of Professional Regulation." This statement is the defendants' own conclusion which is a distortion of facts. **The facts are: I claimed that the defendants, IDPR and State officials conducted intentionally discriminatory practices against me because of me being a female Asian-American, by using the discriminatory tools/devices such as Random Investigation Investigation without ground, and Investigation of Potential Violation, etc. and I have been suffering from discriminatory investigation by IDPR, defendants and State officials. They also misinterpreted and misused Police Power of the State in discriminatory fashion.**

Unfortunately, the defendants stubbornly refused to acknowlege racial & gender discrimination claim due to the simple fact that they cannot deny the true existence of their discriminatory practices against me.

Fourteenth Amendment of Constitutional Law of U.S.A.

1). All persons born or nationalized in the United States, and subject to the jurisdiction thereof, are citizens of The U.S.A. and of the State where they reside

2). No States shall make or enforce any law which shall abridge the privileges or immunities of citizens of the U.S.A.

3). Nor shall any State deprive any person of life, liberty,or property without due process of law;

4). Nor deny to any person within its jurisdiction the equal protection of the laws.

Clause 2. "The privileges and immunities" clause of this amendment means that rights which owe their existence to U.S. citizenship- that is those which are entirely derived from this Constitution or Federal laws may not be abridged by the States by anyway. These rights include right to travel between States, right to vote, right to engage in interstate commerce, right to trial by jury, right to access to courts of law, right to pursue freedom and happiness etc.

Clause 3. "Due process clause" means that it must be arbitrary in its subject matter and that, it must be conducted with fairness in its procedure. The rights covered by this clause are basic and fundamental parts of equal protection clause. The fundamental rights protected by constitutional law against abuse and discrimination by States and State officials.

Clause 4. "Equal protection" clause is particularly designed to prevent and eliminate the State discriminatory actions against

any person or group of people based on race, color, national origin or gender, etc. It is designed to protect any person or group of people from being singled out for hostile legislation or action by the State government and means that all persons in the same situation must be treated with a like by the State. The equal protection of the laws is pledge of the protection of equal laws.

"Equal Protection" clause was placed in our constitution as the culmination of the greatest humanitarian movement in American history. State of Illinois, IDPR, the defendants and State officials cannot do just anything they choose to do and cannot use any means, no matter what its consequences , to accomplish their aims.

It is very clear that the provisions in Fourteenth Amendment of U.S. Constitutional law prohibit discriminatory practices of the State and State officials, and this can be used as basis for my claim.

They also violated Illinois Contitutional law.Illinois State Law under775 ILCS 5/1-102(F) Implimentation of Constitutional Gaurantees; to secure and guarantee the rights established by Section 17, 18, 19 of Article I of the Illinois Constitition of 1970, and 775 ILCS 5/1-102 (G) Equal Opportunity, Affirmative Action; to establish Equal opportunity and Affirmative Action as the policies of this State in all of its decisions, programs and activities, and to assure that all State departments, boards, commissions eliminate the effects of past discrimination in the internal affairs of State goverment and in their relations with the public.

Medical Practice Act of 1987, 225 ILCS 60/10 (B) provides a provision to prohibit discrimination agaist any physician because of national origin or geographic location of medical education. This also can be used as a basis for my claim of racial discrimination.

2. ELEVENTH AMENDMENT DOES NOT BAR THE CLAIM AGAINST THE STATE, IDPR, DEFENDANTS AND/ OR STATE OFFICIALS WHO VIOLATE LAW.

State of Illinois, IDPR, defendants and State officials do not have the privilege of "Immunity" against Racial and gender discrimination claim when they conduct practices that violate the laws no matter whether they act in their official capacity or not.
The eleventh amendment was never intended, nor held, to grant the states the ability to subvert the supremacy clause by granting immunity to the states or their officials from judicial orders to comply with constitutional law and federal law.

3. PERSONAL INVOLVEMENT OF DEFENDANTS IN INTENTIONAL DISCRIMINATORY PRACTICES AGAINST ME IS OBVIOUS.

Personal involvement of defendants in intentional discriminatory practices against me is obvious in that they initiated and perpetuated intentionally discriminatory practices against me; used discriminatory tools/devices/instruments i.e. Random Investigation, Investigation without ground, Investigation of Potential Violation, Request for hearing in IDPR office, etc. in their practices; and keep their investigation (a modern iron shackle) alive for more than two(2) years. All these activities cannot be executed on their own, these activities require personal involvement of the defendants and State officials in their official capacity to make it function. These activities cannot be performed by either ghosts or robots. IDPR office composes of brick, wall, operating equipments, tables, chairs, desks, etc. Its' function is carried out by actions of living individuals with official authority in the Department. Actions and behaviors are the products of their conscious choice. They have full access of information of their behaviors and conducts. It requires discovery process to find out exactly who does what. The defendants and State officials work in conserted efforts in their discriminatory practices against me under the name of IDPR.

Although, the defendants and their attorney cited several court decisions in their memorandum to dismiss the case, they virtually took the words out of the context. A previous court decision is a court opinion pertaining to that particular court case only, it is not the law. The reference cases that the defendants and their attorney mentioned are totally different cases. Those reference cases are different from my case in the subject matter, issue, situation, time and circumstance. Those reference cases have nothing in common with my case whatsoever. The court decisions of those cases are irrelevent and therefore, are not applicable to this lawsuit.

Just decision should be made on the basis of facts, and merits of the case, not on technicalities or political reason. Just decision should be and must be made on individual case basis, in accordance with the law of the land which is known as the United States Constitutional law. The constitutional law of U.S.A is supreme. It is this federal court that has the authority and jurisdiction to enforce the constitutional law.

Dismissal of my complaint/claim is premature, unfair, unjust for me and would prohibit the discovery process require for trial by jury. It basically represents denial of the opportunity for me to prove my claim/complaint in the court of law, and denial of trial on merits, before a panel of impartial juries in the court of law.

I pray to God to give the court an insight, wisdom, good judgement, integrity and the ability to provide "JUSTICE FOR ALL".

Respectfully submitted,

/s/ YavaraceYoung,M.D.
3/15/96
YavaraceYoung, M.D.,
Pro Se, Plaintiff
2801 Brown Street
Alton, Illinois 62002
618/463-0059

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
219 South Dearborn Street
Chicago, Illinois 60604

Yavarace Young, M.D.
Plaintiff-Appellant Appellate Court No. : 96-1958

-VS-

Defendants-Appellees

1. State of Illinois
2. Illinois Department of Professional Regulation
3. Illinois Medical Disciplinary Board
4. Nikki M. Zollar, Director of Illinois Department of Professional Regulation
5. Wiiliam B. Shlifka, Chief of Medical Investigations
6. Robert J. Schafer, M.D. Medical Coordinator
7. Steven Wagy, Investigator
8. Dave Walker, Illinois State Police

MEMORANDUM

TO SUPPORT MOTION FOR AN ORDER TO IMMEDIATELY VACATE AN ORDER OF ILLINOIS DEPARTMENT OF PROFESSIONAL REGULATION TO SUSPEND DR. YAVARACE YOUNG'S ILLINOIS MEDICAL LICENSE

"State of Illinois" is defined as all officers, employees, contractors, subcontractors, operators, investigators, consultants, all other agencies, personnel, including all departments operated under State of Illinois and anyone associated with this group in the conduct of their business.

"Illinois Department of Professional Regulation" is defined as all officers, employees, contractors, subcontractors, investigators, consultants, all other agencies, personel, including Illinois Medical Disciplinary Board, and anyone associated with this group in the conduct of their business (The abbreviation of IDPR will be used for Illinois Department of Professional Regulation).

The word "Defendants-Appellees" is defined as all the eight named Defendants-Appellees as shown above.

The word "State officials" is defined as unknown and un-named individuals, officers, employees, contractors, subcontractors, investigators, consultants, all other agencies, personel or anyone who work in consert with the above named defendants.

The word "they" means all named Defendants-Appellees and State officials.

The word "I" means Plaintiff-Appellant in this lawsuit.

Yavarace Young, M.D., Pro Se, Plaintiff-Appellant makes a motion to the court to immediately vacate an order of Illinois Department of Professional Regulation to suspend her Illinois Medical License, and states as follows:

1. Yavarace Young, M.D. ("I") is a holder of an Illinois Medical License which was issued to me since December 9,1976 by the Illinois Department of Professional Regulation. I have never made any offense at all time of my medical practice. Attached to this memorandum are DOCUMENT NUMBERS 1 to14, and a Surprised Exhibit Number 14 (DOCUMENT 15)

2. I filed Racial and Gender Discrimination complaint/ lawsuit against the above named Defendants-Appellees, and Illinois State officials with United States District Court for the Southern District of Illinois on August 29,1995. Racial and Gender Discrimination complaint/lawsuit was made based in part on the intentionally discriminatory practices against me; conducts of "Random Investigation, Investigation with no ground and Investigation of Potential Violation"; the use of discriminatory tools/ devices/ instruments i.e. the request of several medical records of my patients for the purpose of Random Investigation, Investigation with no

ground and Investigation of Potential Violation; and the intentional application and administration of Illinois Statute 225 ILCS 60/22 A (38) in discriminatory fashion against me because I am a female, Asian-American physician, a racial minority. Every one must be mindful to the fact that there is no provision of law in either Medical Practice Act or State of Illinois Statute that allows State of Illinois, IDPR, the Defendants-Appellees and/ or State officials to conduct "Random Investigation, Investigation without ground, and Investigation of Potential violation." It is done without any reasonable basis and therefore is purely arbitrary and outright discrimination against me. **They violate my fundamental right guaranteed by the Fourteenth Amendment of the United States Constitutional law (28 U.S.C. section 1331), violate Federal law, Illinois Constitutional Law, and Illinois Medical Practice Act of 1987, and intentionally apply and administer Illinois Statute 225 ILCS 60/22A (38) in discriminatory fashion against me.**

3. I received in my office a notice of Indefinite Suspension of my Illinois Medical License (DOCUMENT 2) from Mr. David K. Igasaki, an attorney and employee of the Illinois Department of Professional Regulation on April 24,1996. The recommendation to suspend my Illinois Medical License was made by Shari Dam who holds the position of an Administrative Law Judge, a hearing officer for IDPR and is also an employee of IDPR. This action was based on the false allegation that I did not send IDPR the requested medical records of my patients, as such she (Shari Dam) concluded that I violated Illinois Compiled Statutes (1992), Chapter 225, Act 60, Section 22A (38). I have informed IDPR repeatedly that the requested medical records of my patients were sent to the best of my ability via express mail on March 22,1994. The copy of Express mail receipt dated March 22,1994 and a copy of the return receipt showing the receipt date March 23,199 are attached to this memorandum (DOCUMENT 1).

Obviously, they falsified the fact and made the wrong allegation about medical records in order to proceed to suspend my medical license in discrimination and retaliation. IDPR's notice of suspension of my Illinois Medical License (DOCUMENT 2) contains one (1) page of notice, one (1) page of certificate of service by mail, two (2) pages of so called "Finding of Fact, Conclusion of Law and Recommendation to the Director" signed by five(5) illegible signatures on April 17,1996, and six (6) pages of "Hearing Officer's Report and Recommendation" signed by Shari Dam, Hearing Offficer on March 28,1996. On page one of this Hearing Officer's Report and Recommendation, it was stated "*Respondent refused to release patients' medical records to a Department investigator and an Illinois State Police officer when presented with properly excecuted releases.*" The facts are on February 15,1994, I was visited by two individuals who represented themselves to be officials of State of Illinois. These two individuals came to my office during the office hours without prior notification. These two individuals did not properly identify themselves. I was shock and stunned by their visit. I inquired these two individuals as to the purpose of their visit and whether there was any complaint or allegation against me. These two individuals answered me that there was no complaint or any allegation against me, and further stated that they simply conducted "Random Investigation to identify fraud and abuse in Medical System." These two individuals verbally requested several of my patient records and the billing records. In general, these two individuals appeared very suspicious. Their actions were inconsistent with normal practice for acquiring medical information. These two individuals did not notify me in advance of their visits and I received no formal correspondence regarding their requests. Following the incident on February 15,1994, I have made a complaint to their superiors including Ms. Nikki M. Zollar, director of IDPR and inquired her about the identities&conducts of these two individuals in question and the reason, justification for their conducts. While waiting for the response from Ms. Nikki M. Zollar, these two individuals in question came to my office again with various requests, threats and intimidation on February 25,1994. As in the previous visit, I received no prior notification. This of course was very disruptive to my medical practice. Approximately two weeks after my inquiry to Ms. Nikki M. Zollar, director of IDPR, these two individuals in question were identified by a letter of Mr. William B. Shlifka who was Chief of Medical Investigator of IDPR. In Mr. William B. Shlifka's letter dated March 4,1994, one individual was identified as being Mr. Dave Walker, Illinois State Police and another being Steven Wagy, Investigator, but IDPR and Mr. William B. Shlifka did not provide me with any information to justify the actions and conduct of these two individuals. State of Illinois,the Defendants-Appellees, IDPR, Illinois Medical Disciplinary Board and State officials did not act in good faith. They intentionally engaged in the concerted efforts to discriminate against me because of my race and gender. These two individuals chose to discuss about me with my patients without my knowledge. I was later informed by several of my patients that the two individuals who represented State of Illinois officials went to their homes without prior notification. These two individuals went to see my patients from home to home, telling my patients that I have been under investigation. These two individuals also discussed with my patients in an effort to acquire information on my competency. Apparently, they acted under the veil of secrecy but lack of confidentiality and in their official capacity they have adopted "Gestapo type of activity" in their practice. On March 10,1994, Dr. Robert J. Schafer, Medical Co-ordinator sent me a letter requested me to release medical records of several of my patients. His letter was received in my office on March14,1994. With my good faith, I subsequently sent them the medical records to the best of my ability on March 22,1994.(DOCUMENT 1) In his letter dated March 10,1994, the medical record were requested pursuant to Section 22(A) (38) of Medical Practice Act of 1987. The specific reason for their request was not given despite several of my requests for their actions. My serious concern is the possibility of fabrication and/or manufacturing of any evidence to justify their wrongdoings in the first place. I had not heard any thing from them at all until approximately 17 months later.

On August 7,1995, I received a notice of informal conference(DOCUMENT 3) from Mr. David K. Igasaki, attorney and employee of IDPR, requested me to attend an informal conference on August 30,1995 at IDPR office in Springfield. The purpose was identified as a meeting to discuss

> *"BRIEF STATEMENT OF ALLEGED VIOLATIONS: On or about February 25,1994, respondent refused to furnish medical*

records lawfully requested by investigators of The Illinois Department of Professional Regulation"

At this point, I totally lost faith in IDPR and Illinois State officials. IDPR has falsified the fact and made the wrong allegation that I did not send them the requested medical records. On August 28,1995, I wrote a letter (DOCUMENT 4) to Mr. David K. Igasaki explaining him that the requested medical records were sent to the best of my ability.

It was impossible to acquire justice and fairness in dealing with them. Therefore, I had to seek justice in the federal court in order to afford an impartial judge to acts as a referee in the proceedings; and be permitted the opportunity to prove my complaints/claims in the court of law, before a panel of impartial juries. Unfortunately, the district court consciously dismissed the case with prejudice. The dismissal of the case was premature and there was a lack of Initial Disclosure, Discovery, and Pretrial Process. I have no other choice but to seek justice in the United States Court of Appeals for the Seventh Circuit. It is not my desire to hurt anyone. The Defendants-Appellees and State officials have violated my rights guaranteed by the Fourteenth Amendment of the United States Constitution etc. I believe that every American citizen is entitled to fairness, equal treatment, justice and protection from intentionally discriminatory practices on the part of the Defendants-Appellees and State officials. My good conscience give the courage and strength to stand up and fight for principle and justice.

According to my recent legal research and review, 225 ILCS 60 Section 22(A) (38) of Medical Practice Act 1987 is one of the 38 grounds for the disciplinary actions and states "Failure to furnish the Department, its investigators, representatives, ***relevant information*** legally requested by the Department after consultation with the Chief Medical Coordinator or the Deputy Medical Coordinator." Relevant information is not the medical records. Conversely, medical record is not relevant information. Relevant information in 225 ILCS 60/22(A) (38) of the Medical Practice Act 1987 becomes a subjective term in this instance as there was no charge against me, and no allegation against me prior to their initiation of investigation and prior to their request for the medical records. This provision of Illinois Statute appears to be neutral and fair on its face, however it is intentionally applied, and administered in a discriminatory fashion against me by the Defendants-Appellees, State of Illinois, IDPR, Illinois Medical Disciplinary Board and the State officials. They are sophisticated discriminators and skillfully use medical record issue as a discriminatory tool/ device in their discriminatory practices. Apparently, the medical record is the modern version of the old Iron chain that they use to shackle me. Immediate indefinite suspension of my Illinois Medical License based on the false allegation of medical record issue is bias, prejudice, vindictive, abuse of power and outright discrimination. This kind of action should not be tolerated in our Civilized American Society.The most important fact is that I have not done anything wrong. Worse than this is that they falsified the fact and made a wrong allegation that I did not send them the medical records. One simple question is "Does the medical record issue make me be a bad physician?" the answer to this question must be "absolutely no."

4. During the pendency of the proceedings in the Disrtict Court, Defendants-Appellees, IDPR and State officials are keeping on using discriminatory tools/ devices such as investigation, request for a hearing at IDPR office and request for preliminary hearing before the Administrative law judge with a false allegation that I did not send them the medical records and they threatened to sanction, suspend and/or revoke my medical license if I did not comply with their requests.

The request for a preliminary hearing at IDPR office on December 11,1995 (DOCUMENT 5) was made approximately two an a half month after the filing of the Discrimination lawsuit.

On December 6,1995, I wrote a letter to Mr. Gregory T. Riddle, State Assistant Attorney General who was an attorney for the Defendants, State of Illinois et al (DOCUMENT 6), requesting him to advise the defendants, IDPR and State officials to stop their activities which circumvent the authority of the court.

On December 11,1995, I received Mr. Gregory T. Riddle's letter dated December 8,1995 (DOCUMENT 7). On this very same day the court granted my request for extension of time to amend my First Amended Complaint to be on or before February 6,1996.

An *"Order to Answer or be held in default"*, with request for status hearing before the Administrative Law Judge on January 29,1996 (DOCUMENT 8) was made approximately three and a half months after the filing of the Discrimination lawsuit.

These requests for hearing with the false allegation that I did not send them the requested medical records are in fact the technique/ discriminatory tool that Defendants-Appellees, IDPR and State officials use to deceptively portray as the due process of law and also serve as a tool for them to proceed in order to suspend/revoke my medical license and destroy me by all means. The hearing about the medical record issue in IDPR office is also served as "Smoke and Mirrors" to cover up the genuine issue of discrimination and their wrongdoings. In addition, the hearing and the proceedings in IDPR office are the Administrative Manifestations of Racial and Gender discrimination against me. It is very obvious that their decisions and practices during the pendency of this lawsuit derive from the background of discriminatory intents prior to the lawsuit. Actions and behaviors are the products of their own conscious choices. An accident or unintentional acts may occur once or twice but persistent, consistent and continual discriminatory practices that lasted for more than two years indicate their intention. The Defendants-Appellees, and State officials have a full access to the information of their own behaviors. Upon discovery, their practice behavior will come to light.

The hearing in IDPR office is not the due process in the concept of the Constitutional law, i.e. IDPR office is not a court of law; the decision and judgement are unilateral, it is not made by the panel of impartial juries, it is not made by the juries of peers of the accused, and no public record, etc. It is basically an internal affair of administration. State of Illinois, IDPR, Illinois Medical Disciplinary Board and State officials are the defendants in the

lawsuit which I filed with the federal court on August 29,1995. This lawsuit is in the category of federal question. When there is a question as to what procedures are required to assure fundamental fairness, it is a federal constitutional question to be decided by the federal court; it is not determined by the state law or by IDPR.

In addition, the fundamental fairness in constitutional concept requires the separated powers doctrine. Power is typically separated into 3 (three) branches: legislative, executive and judiciary which is totally different from administrative organization and structure in IDPR.The administrative organization in IDPR reveals that Investigative, Prosecuting and Judiciary functions are all performed by IDPR. This type of administrative structure of IDPR automatically makes IDPR a single agency of combined powers which is contradict to the due process in constitutional law. This sort of combined powers also allows agencies to act more arbitrarily, to abuse, to misuse, to discriminate, to use ad hoc solutions and sanctions rather than just resolution formally prescribed by standing law. Delegations of all 3 (three) powers to a single agency also degrade the rule of law. IDPR acts as a police, a prosecutor, and a judge at the same time. IDPR becomes a single agency with Super-Power.

On January 8,1996, I sent a correspondence in response to IDPR's "*Order to Answer or br held in Default*"(DOCUMENT 9), and requested them to postpone *"Status of Hearing"* to be held at a later date until such time that the final court decision was made.
The copies of certified receipt are attached with DOCUMENT 9.

On February 5,1996, I received an *"Order of Default for Failure to Appear or Answer and To Transfer the matter to the Board on The Pleadings"* (DOCUMENT 10) from IDPR eventhough, I have made an answer to their requests on January 8,1996. The order was made without the signature of Administrative Law Judge.

On February 8,1996, I received a copy of *"IDPR's motion to Strike Purported Answer"* (DOCUMENT 11) which was filed with the

Hearing officer of IDPR on February 2,1996 by Mr.David K. Igasaki, an attorney and employee of IDPR.

On February 21,1996, I received an *"ORDER"* from IDPR dated February 15,1996 (DOCUMENT 12).Apparently, this order was written by Mr.David K. Igasaki with illegible signature for Administrative Law Judge.

On February 25,1996, I wrote a correspondence in response to the order dated February 15,1996(DOCUMENT 13), I once again requested IDPR to postpone the *"Status Hearing"* and requested for *"Rule of Practices in Administrative Hearing in IDPR."*

On March 7,1996, I received a letter dated March 4,1996(DOCUMENT 14) and a booklet of *"Rule of Practices in Administrative Hearing in IDPR"* from Ms. Shari Dam.

In spite of my answer to the order of the Administrative Law Judge and request on two occasions (letters dated January 8,1996 and February 25,1996) to postpone "status hearing" until the discrimination lawsuit is resolved by the Federal court. State of Illinois, IDPR, Illinois Medical Disciplinary Board and State officials simply denied my request. The purposes of my request were to avoid circumvention of Federal court proceedings; allow legal process to proceed in the federal court in an equitable manner that would protect the overall integrity of all evidences submitted; both defendants and plaintiff would have equal opportunity to prove in the court of law.

According to "Hearing Officer's Report and Recommendation" which I received along with IDPR's notice of indefinite suspension of my Illinois medical license on April 24,1996 (DOCUMENT 2), a formal evidentiary hearing was held on March 11,1996, Ms. Shari Dam presided as hearing officer along with Mr.Virgil Wikoff, a member of the Medical Disciplinary Board, and Mr. David Igasaki, the attorney and employee of IDPR. All three of them are Illinois State officials in IDPR and State of Illinois. The hearing in IDPR office is in fact no different to a ceremony /or ritual event to kill the sacred cows. Certain acts or procedures must be performed in order to ensure the proper conduct of the ritual. Eventhough, there may be improper conduct of the ritual, the performers are always safe but the cows get kill any way. This very similar procedure was done by IDPR, State of Illinois, Illinois Medical Disciplinary Board and State officials to kill me professionally and financially by taking my medical license away.

In the surprised Exhibit number 14(DOCUMENT 15) which the Defendants-Appellees introduced in surprise to the district court during the injunctive hearing on March 28,1996, Shari Dam, Aministrative Law Judge and a Hearing Offier of IDPR signed an *"Order for Status Post-Hearing/ Transferred to Board on Pleadings or by Settlement Agreement"* on March 11,1996 and stated *"It is hereby ordered that this matter be set for a hearing on status on 5-13-1996, at 1:00 pm, at the Department Office located at 100 West Randolph, Room 9-172, for the purpose of ascertaining whether a final order has been entered. Respondent/Petitioner need not appear unless further ordered by the Hearing Officer."* The signature of Mr. David Igasaki was apparently signed by Ms. Shari Dam. According to this Exhibit number 14 (DOCUMENT 15), this matter was set for hearing on status to be held on May 13,1996, however, Ms. Shari Dam, hearing officer of IDPR have signed a recommendation to indefinitely suspend my medical license since March 28,1996 (DOCUMENT 2) and Illinois Medical Disciplinary Board signed an order to indefinitely suspend my medical license on April 17,1996(DOCUMENT 2). Obviously, the Defendants-Appellees, IDPR and State officials did not follow their own written statement which they presented under oath to the District Court during Protective Injunctive Hearing on March 28,1996. They introduced the surprised Exhibit number 14 (DOCUMENT 15) to the court during the injunctive hearing on March 28,1996 just to show the court that my claim about IDPR's proceedings to take my license was without merit, and they have not yet suspended or revoked my license. The recent action of suspension of my Illinois Medical License on the part of the Defendants-Appellees, State of Illinois, IDPR, State officials and Illinois Medical Disciplinary Board can only be determined that they have not changed their discriminatory intents; continue intentionally discriminatory practices against me; proceed to take my medical license which is my property away from me; to harm me by all means i.e physical & mental pain and suffering, humiliation, aggravation, financial loss, and undermining my reputation and credibility etc.; circumvent the authority of the court while discrimination lawsuit and protective injunctive relief are still pending; abuse and misuse power in their official capacity to create an Ad hoc committee and make Ad hoc Solution for their own interest;unjustly and discriminately take action against a female Asian-American physician, a racial minority; and they function like "they are the law." In conclusion, **they have violated my fundamental right guaranteed by the Fourteeth Amendment of the United States Constitution which is the law of the land.**

5. I filed a notice of appeal with the United States District Court for the Southern District of Illinois on April 16,1996. During the pendency of an appeal of this case, State of Illinois, the Defendants-Appellees, IDPR, Illinois Medical Disciplinary Board and State officials took an action to indefinitely suspend my Illinois Medical License. Apparently, their basic background of discriminatory intents are compounded by the motivation of retaliation and revenge. Obviously, their actions serve to confirm my complaint of Racial and Gender discrimination. Immediate suspension of my Illinois Medical License creates an extreme hardship and suffering on me as well as my patients. I have been practicing medicine for almost 20 (twenty) years. I find a great deal of satisfaction in providing medical care to those most in need. I strive to provide my patients with the best possible care regardless of their race, gender, position or status in society, or ability to pay. It is always my intention to utilize my medical knowlege and skill to benefit mankind. The majority of my patients are women, children, African-Americans, socio-economically disadvantaged population and some working individuals who do not have medical insurance. Unlike many of my collegues, I am not wealthy, I am only a small town doctor. However, success and contentment cannot be measured in material wealth. I have been very happy, living in a very simple life. My goals are to maintain the highest possible ethical standards; to be professional and honest; to provide the best medical care to the patients with

kindness and compassion; to comply with rules and regulations established for my profession; and to excercise commonsense moral code by doing good, do no harm, and keep peace of mind. My patients benefit greatly from my medical practices. As I have mentioned earlier the majority of my patients are women, children, African-Americans, socio-economically disadvantage population and other minorities. These segments of population have difficulty of accessing to adequate health care. Furthermore, medical profession is the human activities undertaken for caring of others, especially those suffer from the ailments. It requires studying and practicing on a daily basis in order to stay abreast with the most current medical information, to maintain and improve the skill and expertise in medical practice. My immediate concern is that some of my patients are taking the medicine that cannot be discontinued immediately without suffering from the harmful and the serious side effects, including pain, suffering and death. Some of them are under medical care and diagnostic investigation. The immediate suspension of my Medical License is not only harmful to me but to my patients as well. It is unfair and unjust to me and to my patients. It indicates a lack of concern for welfare& well being of others and a lack of human caring on the part of State of Illinois, the Defendants-Appellees, IDPR, Illinois Medical Disciplinary Board and State officials. My patients are American people, the majority of them may be economically poor but not morally poor. My patients are good human beings on earth. My patients are not aliens from Mars, Venus or Jupiter. As a nation that pride itself on civilization, and advancement in Medicine, Science, Biomedical Research and technology, all of us also have a responsibility to care and be passionate toward others.

6. This motion to immediately vacate an order of IDPR to suspend my Illinois Medical License is necessary in order to protect me from a continual suffering, persistent irreparable harm; to terminate an unjust / discriminatory/ revenge actions against me on the part of State of Illinois, the Defendants-Appellees, IDPR, Illinois Medical Disciplinary Board, and State officials; to allow legal process to proceed in an equitable manner in the court of law that will protect the overall integrity of all evidences submitted; to do justice for me

and finally for the safety & welfare of my patients which are my most concern. The protective injunctive relief has been sought since the filing of my initial complaint/lawsuit with the United States District Court for the Southern District of Illinois on August 29,1995. However, the District Court denied my request for protective injunctive relief with prejudice pursuant to the Court order on April 1,1996 and the Court Judgement on April 2, 1996.

7. A petition to State of Illinois, IDPR, Illinois Medical Disciplinary Board and State officials is impractical and will be of no value for the many reasons i.e.they are the Defendants-Appellees in this lawsuit; it is a conflict of interest; they do not have the authority and jurisdiction to resolve the discrimination case; and they are the agencies who practice racial&gender discrimination. It is extremely difficult and impossible for me to receive fair treatment from them. I have made the request for them to postpone the status hearing until this case is resolved by the court but without success. My last resource is to appeal the lawsuit and make this motion to the Seventh Circuit. I have no desire to hurt anyone but simply would like to have peace of mind and continue practicing medicine to benefit mankind. However, the present situation is beyond my control. It is extremely painful experience to suffer discrimination, injustice and losing Medical License when I did not do anything wrong.

Although, I am not an employee per se, however by virtue of State of Illinois Statute and Regulation, one becomes an employee of the license issuing authority by default. Illinois Department of Professional Regulation (IDPR) is the only agency who has the authority by virtue of State of Illinois Statute to issue licenses to the many professions and occupations. The physicians including I are not permitted to practice without medical licenses. Losing medical license is worse than losing the job. Since one can always find a new job, but without medical license, a physician can no longer get a job. It is a death of medical profession as well as the death of the medical license holder.

Granting me a court order to immediately vacate an order of IDPR to suspend my Illinois Medical License is of paramount importance in order to safeguard me from permanent damages of losing medical license and Medical Practice; to permit me to acquire fairness and just resolution in the court of law; and allow me to continue practicing medicine to benefit mankind which is my primary job.

I pray the court for understanding and justice.

Respectfully submitted,

/s/ Yavarace Young,M.D
Yavarace Young, M.D.,
Pro Se, Plaintiff-Appellant
2801 Brown Street
Alton, Illinois 62002
618/463-0059

United States Court Of Appeals
For The Seventh Circuit
219 South Dearborn Street
Chicago, Illinois 60604
Docket Number : 96-1958

U.S.C.A.-7th Circuit
RECEIVED
CO MAY 29 1996
THOMAS F. STRUBBE
Clerk

Yavarace Young, M.D.
Appellant

V.

1. State of Illinois
2. Illinois Department of Professional Regulation
3. Illinois Medical Disciplinary Board
4. Nikki M. Zollar, Director of Illinois Department of Professional Regulation
5. William B. Shlifka, Chief of Medical Investigations
6. Robert J. Schafer, M.D. Medical Coordinator
7. Steven Wagy, Investigator
8. Dave Walker, Illinois State Police
Appellees

Racial and Gender Discrimination

Appeal for New Trial From Final Judgement
Of The United States District Court For
The Southern District of Illinois

Brief of Appellant

Yavarace Young, M.D. Pro Se, Appellant
2801 Brown Street
Alton, Illinois 62002
618/463-0059

Yavarace Young, M.D., Pro Se is a Plaintiff-Appellant in this action, hereinafter referred to as "I" or "Appellant"or "Victim" or "Plaintiff-Appellant"

State of Illinois, et al. are all eight (8) named Defendants-Appellees in this action, hereinafter referred as "They" or "Appellees"or "Defendants-Appellees"

Illinois Department of Professional Regulation is one of the eight(8) named Defendants-Appellees in this action, hereinafter referred as "IDPR"

Illinois Medical Disciplinary Board is one of the eight(8) named Defendants-Appellees in this action.

State officials are unknown and un-named individuals, officers, employees, contractors, subcontractors, investigators, consultants, all other agencies, personel or anyone who work in conserted efforts with the eight(8) named Appellees in this action.

I. Jurisdictional Statement

Pursuant to Circuit Rule 28(b) and Federal Rule of Appellate Procedure FRAP 28(a) (2), I provide the Seventh Circuit the Jurisdictional Statement as follows:

1. The statement concerning the district court's jurisdiction. I filed Racial and Gender Discrimination complaint/ lawsuit with the United States District Court for the Southern District of Illinois on August 29,1995; filed First Amended Complaint on February 5, 1996 and filed the addendum of the First Amended Complaint on February 6, 1996. All Appellees and State officials are well aware of my identity that I am a female Asian-American physician. They have been using the discriminatory tools/devices/instruments in their intentionally discriminatory practices against me, i.e. Random Investigation, Investigation with no ground, and Investigation of Potential violator and Requesting of patients' medical records. Reference to Dr.Robert J. Schafer's letter dated March10,1994, they requested the medical records of my patients pursuant to Section 22(A) (38) of Medical

Practice Act of 1987.1 According to my recent legal research and review, I discover that Section 22(A) (38) is one of the 38 grounds for their actions and states

> "Failure to furnish the Department, its investigators, representatives, relevant information legally requested by the Department after consultation with the Chief Medical Coordinator or the Deputy Medical Coordinator."

Relevant information in Section 22(A) (38) of the Medical Practice Act 1987 becomes a subjective term in this instance as there was no charge against me, and no allegation prior to their initiation of investigation and prior to their request for the medical records. The law appears to be neutral and fair on its face, however it is intentionally applied, and administered in a discriminatory fashion against me by the Appellees, IDPR and State officials. To the best of my knowledge, I have not done any thing wrong or made any offense. The two Appellees, Steven Wagy, and Dave Walker who made an unannounced visit to my office on February 15,1994, confirmed to the facts that I did not do anything wrong and they simply conducted a "Random Investigation to identify fraud and abuse in medical system." Their intentionally discriminatory practices violate my right guaranteed by the Fourteenth Amendment of the United States Constitutional law 2, (28 U.S.C.A. § 1331), violated Federal law, Illinois Constitutional law and Illinois Medical Practice Act of 1987.

Fourteenth Amendment of Constitutional Law of U.S.A. stated:

1). All persons born or nationalized in the United States, and subject to the jurisdiction thereof, are citizens of The U.S.A. and of the State where they reside

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1 *Act 60, Medical Practice Act of 1987*, 225 ILCS 60/22 (38), *Disciplinary action-Ground,* pages 322-325.

2 *The Fourteenth Amendment of the United States Constitution* (1868)

2). No States shall make or enforce any law which shall abridge the privileges or immunities of citizens of the U.S.A.

3). Nor shall any State deprive any person of life, liberty,or property without due process of law;

4). Nor deny to any person within its jurisdiction the equal protection of the laws.

They violated my civil right 3 under protection of 42 U.S.C.A.§1981, 42 U.S.C.A. § 1983, 42 U.S.C.A.§ 1985 and Human Rights Act of Illinois Contitutional law 4 under 775 ILCS 5/1 102(F) Implimentation of Constitutional Guarantees; to secure and guarantee the rights established by Section 17, 18, 19 of Article I of the Illinois Constitition of 1970, and 775 ILCS 5/1-102 (G) Equal Opportunity, Affirmative Action; to establish Equal opportunity and Affirmative Action as the policies of this State in all of its decisions, programs and activities, and to assure that all State departments, boards, commissions eliminate the effects of past discrimination in the internal affairs of State government and in their relations with the public. They also violated Illinois Medical Practice Act of 1987. Act 60, Medical Practice Act of 1987, 5 225 ILCS 60/10 (B) provides a provision to prohibit discrimination against any physician because of national origin or geographic location of medical education. This lawsuit is in the category of federal question. When there is a question as to what procedure are required to assure fundamental fairness, it is a federal constitutional question to be decided by the federal Courts; it is not determined by the State law.

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3 *Civil Rights;* 42 U.S.C.A.§1981, *Equal rights under the law,* page 610; 42 U.S.C.A.§1983, *Civil action for deprivation of rights,* page13; 42 U.S.C.A.§1985, *Conspiracy to interfere with civil rights*, page 13-14.

4 *Human rights act,* 775 ILCS 5/1 102(F), *Implementation of Constitutional Guarantees* and 775 ILCS 5/1-102(G) *Equal Opportunity, Affirmative Action*, page 731.

5 *Act 60, Medical Practice Act of 1987*, 225 ILCS 60/10 (B), *Rules and Regulations*, page 730.

2. The Statement concerning appellate jurisdiction. Pursuant to Circuit Rule 3, and Federal Rule of Appellate Procedure (FRAP) Rule 3, I filed the notice of appeal as of right for the trial in the United States Court of Appeals for the Seventh Circuit from the District Court order to dismiss my First Amended Complaint including all requests and reliefs sought by Appellant in the First Amended Complaint, Court order to dismiss the Defendants-Appellees, the State of Illinois, the Illinois Department of Professional Regulation, and Illinois Medical Disciplinary Board from this case, Court order to dismiss all claims against Defendants-Appellees Nikki M. Zollar, William B. Shlifka, Robert J. Schafer, and Steven Wagy -- other than claims for declaratory or injunctive relief, entered in this action on March 22, 1996; the District Court order to deny my motion for injunctive relief, to dismiss the First Amended Complaint and to dismiss all Defendants-Appellees, entered in this action on April 1,1996 with the final judgement of the court entered on April 2,1996. The District Court judgement dated April 2,1996 stated "It is ordered and adjudged that this cause of action is hereby Dismissed with prejudice pursuant to an Order of this Court filed April 1,1996."

In my First Amended Complaint, I requested the District Court to take action as follows:

1. Issue an immediate protective injunctive relief to prohibit Defendants-Appellees, State officials and any relating agency from continue and/or initiate any action related to and/or against me until the decision is reached by the court, and void all previous actions related to and/or against me until the final decision is reached by the court.

2. allow me the discovery process in order to discover the unknown, and un-named State officials or any individual who work in consert with the Defendants-Appellees in this ordeal.

3. allow the complaint to be resolved by Jury Trial.

4. allow me the opportunity of discovery process, and pre-trial procedure in order to prove my complaint in the court of law.

5. make a judgement against Defendants-Appellees, and State officials and award me (Victim) with monetary compensation in the amount no less than $ 1,000,000 (one million U.S. dollars) for loss of professional consultation, loss of business revenue, damages to professional reputation and credibility, mental and physical suffering, legal expense and relating litigation expense.

Apparently, the District Court have ignored my complaint and the above requests. The court analysis and order in the court order dated December 6, 1995 was contradictory in itself and prejudice.

The District Court analysis in the Court orders dated March 22, 1996 and April 1, 1996, indicated that the court ignored my complaints and/or claims of Racial & Gender discrimination, oversimplified and understated my complaints, did not thoroughly review the circumstances and all facts, broke the material facts, motions, complaints and/or claims into piecemeal then analyzed the piecemeal and used the wrong legal concept to the facts. The District Court made the predetermined decisions with subconscious bias. The decisions were made without the discovery process, and initial disclosure pursuant to local rule 12(a)(1). There was a lack of fair trial procedure. The District Court denied my right of fair trial before a panel of the impartial juries. Therefore, the District Court decisions were wrong and this case should be allowed to trial in the Seventh Circuit.

This is not a new trial since there has never been a jury trial in the District Court in the first place. The dismissals of my complaints and/or claims, and all Defendants-Appellees in this lawsuit represented a failure in the administration of law and justice. Later on the District Court consciously recognized that the dismissal of the case was with prejudice as the court stated in the court order dated April 1, 1996 and the Court Judgement entered dated April 2, 1996.

The following particulars are provided:

(i) The dates of entry of the orders and/or judgement sought to be reviewed are the District Court order dated December 6, 1995, the District Court order dated March 22, 1996, the District Court order dated April 1, 1996 and the final judgement dated April 2, 1996.I would like to request the Seventh Circuit that the whole complaints and/or claims be resolved by a trial in the Court of Appeals since there has never been a trial in the District Court in the first place.I further request the Seventh Circuit to allow me to amend complaint and amend Defendants-Appellees as there have been more current events which are harmful to me since the filing of the First Amended Complaints on February 5, 1996.

(ii) I filed the motion for protective injunctive relief with the District Court on February 20, 1996. The District Court dismissed this motion on April 1, 1996. This motion is appealed for the new trial.

(iii) My motion for protective injunctive relief was dismissed by the District Court order on April 1, 1996 with the final judgement entered on April 2, 1996.

(iv) The notice of appeal was filed with the District Court on April 16, 1996.

(v) On April 24,1996, I received a notice of indefinite suspension of my medical license to practice as a physician and surgeon in the State of Illinois from Illinois Department of Professional Regulation.(Appendix B-15, Notice of Suspension of Medical License, pages 82-83). This action indicates that the Appellees, IDPR, Illinois Medical Disciplinary Board and State officials have circumvented the authority of the court, abused of power and continued discriminatory practices against me including the indefinite suspension of my medical license which is my property, despite my requests for postponement of status hearing until the discrimination lawsuit is resolved by the court.

Reference to (ii) and (iii), I filed a motion for protective injunctive relief with the Clerk of the District Court on February 20, 1996. Following this date, the Appellees did not file any motion or statement of objection to my motion. Therefore, my motion for protective injunctive relief was of no contest and it should be granted to me instantly. On March 21, 1996, the Deputy Clerk of the District Court phoned me to inform me that a hearing for injunction was scheduled to be held on March 28, 1996 at 10:15 am, and the hearing should last for one hour. Approximately 11:30 am on March 27, 1996, I received the District Court order dated March 22, 1996 to dismiss defendants number 1 to 7 and stated "Plaintiff should be prepared to present evidence and argument as to why she is entitled to the grant of a preliminary injunction against the state official Defendants." According to local rule of motion practice of this District Court, there will be no oral arguments on motions in civil cases except by specific order of the judge to whom the motion is assigned. Apparently, the District Court order dated March 22, 1996 was mailed on March 26, 1996 as the postmark date appeared on the envelope. I did not have sufficient time to prepare for oral argument with this less than twenty four (24) hours of notice and my understanding was that my motion for protective injunctive relief was of no contest due to the fact that the Defendants-Appellees did not make any motion, reply brief or any statement of objection to my motion after the filing of my motion for protective injunctive relief on February 20, 1996.

The hearing and the proceeding on March 28, 1996 were prejudice. The District Court allowed the Defendants-Appellees to introduce surprised exhibitions and three surprised witnesses to testify.The surprised exhibitions number 1, 2, and 3 have never been made available either to me or to District Court prior to the hearing on March 28, 1996 despite my repeated requests for the reasons of their random investigation since February16,1994. My concerns regarding the fabrication/manufacturing on the part of the Appellees have become a reality on this hearing date. Obviously, they introduced the materials of fabrication and/or manufacture in an attempt to justify their wrongdoings and intentionally discriminatory practices against me in the first place. It requires a discovery process and the proofs before these exhibitions be allowed as evidence in the court room during the hearing. The exhibit number 4 was voluntarily withdrawn by them. The exhibits number 5 to 13 were orders of the Administrative law judge of Illinois Department of Professional Regulation(IDPR), my answers and some motions of Mr. David K. Igasaki, an attorney and employee of IDPR.The exhibits number 5 to 13 were self-explanatory, and demonstrated that IDPR, Appellees and state officials had circumvented the authority of the District Court while the racial and gender discrimination lawsuit and my motion for protective injunctive relief were pending; they have not changed their discriminatory intent and continued their intentionally discriminatory practices against me in order to harm me by all means including the proceedings to suspend and/or revoke my medical license which is my property. The exhibit number 14 was another surprised exhibition which I have never seen until this hearing date. Two out of three surprised witnesses are Mr. Steven Wagy, and Mr. Dave Walker who are the Appellees in this racial and gender discrimination lawsuit. Another witness is Mr. David K. Igasaki, an attorney and employee of IDPR. The hearing and proceedings were prejudice against me. Therefore the court decisions to deny protective injunctive relief and to dismiss the lawsuit, claims, and all Defendants-Appellees were wrong.

After several months of complaining, pleading, begging and praying for protective injunctive relief and justice; all to no avail, I see no recourse but to appeal to the Seventh Circuit. I believe that The United States Court of Appeals is the institution wherein just decision, conscience of mankind and human rights can be appealed to. Certainly, the errors of the District Court are reversible. It is within the jurisdiction and authority of the Seventh Circuit to make the correction of the errors and to do justice.

II. Statement of Issues

Basically, this lawsuit composes of two components; 1.the claim and 2.the relief sought. Racial and Gender Discrimination with discriminatory effects was stated very clearly in both original complaint and the First Amended Complaint. The District Court dismissed this case for failure to state a claim upon which relief can be granted and Eleventh Amendment as a Bar for Plaintiff's Suit. (Appendix B-12, court order entered dated March 22,1996, pages 68-74.) Apparently, the District Court ignored my claim, failed to apply equal protection provision of The Fourteenth Amendment of the United States Constitution as the basis of my claim, used the wrong legal concept to the facts and finally made the wrong decision.

1. This District Court decision and order give rise to three issues out of the claim for the Seventh Circuit to review as follows:

(A) Failure to state a claim for which relief can be granted

(B) Eleventh Amendment cannot be used as a bar for a lawsuit when Defendants-Appellees violate my fundamental rights guaranteed by the Fourteenth Amendment of the United States Constitution.

(C) The use of wrong legal concept to the facts and made wrong decision. The Fourteenth Amendment of the United States Constitution should be applied to this case.

2. The second component regarding relieves sought is the issue to be reviewed for "Doing Justice" and "Making Correction of the Errors." It is listed as follows:

(A) I am a victim of Racial and Gender Discrimination, an aggrieved party. I am entitled to the relieves sought. The vital issue at this time is a court order to immediately vacate IDPR'S order to suspend my Illinois Medical License. I have sought the protective injunctive relief since I filed the lawsuit with the District Court on August 29,1995. The District court order (Appendix B-13, Court order dated April 1,1996, Page 77-80) and final judgement (Appendix B-14, Judgement, dated April 2,1996, page 81) denied granting me the protective injunctive relief with prejudice. One day after I filed the notice of appeal, IDPR suspended my Illinois Medical License. A notice of indefinite suspension of my Illinois Medical License was received in my office on April 24,1996.(Appendix B-15, Notice of indefinite Suspension of Medical License, page 82-83) I filed a motion with memorandum to immediately vacate a Medical License suspension order of IDPR with the Seventh Circuit on May 7,1996. As of this date, the decision regarding my recent motion has not been made by the court. I respectfully request the Seventh Circuit to review this issue and grant me the relieves sought.

(B) Seeking justice in the Court of Law. The District Court ignored my request for discovery process, fair pretrial process, and fair trial before a panel of impartial jury.

(C) Monetary relief for damages to professional reputation and credibility, pain and sufferings, financial loss, a loss of my Illinois Medical License which is my proporty, legal and any related expenses for the amount no less than $1,000,000 (one million U.S. dollars).

III. Statement of Facts

1. State of Ilinois et al, IDPR, and State officials are fully aware that I am a female, Asian-American physician and a graduate of foreign medical school practicing at 2801 Brown Street, Alton, Illinois 62002.(Appendix A-1, my letter to Director of IDPR dated February 16,1994, pages 1-2; Appendix A-2, my letter to Mr. Roland W. Burris, dated February 16,1994, pages 3-4; Appendix A-3, my letter to Governor Jim Edgar dated March 3,1994, pages 5-7)

2. They have been using discriminatory tools and/or devices and /or instruments in their intentionally discriminatory practices against me because of my racial minority and of female gender.(Appendix B-1, my original complaint, page 2, Appendix B-3, my memorandum in support my motion to quash, pages 9-10, Appendix B-7, First Amended Complaint, pages 29-31) Their discriminatory tools are random investigation, investigation of potential violation, investigation with no ground and collection of medical records etc.

3. They have placed me in "suspect" class and targeted me for "Random investigation."(Appendix B-7, First Amended Complaint, page 26.)

4. On February 15,1994, I was visited by two individuals who represented themselves to be officials of State of Illinois. These two individuals (they) came to my office during the office hours without prior notification. They did not properly identify themselves. I was not confident that they were genuine officers. I was shock and stunned by their visit. I inquired these two individuals as to the purpose of their visit and whether there was any complaint or allegation against me. These two individuals answered me that there was no complaint or any allegation against me, and further stated that they simply conducted "Random Investigation to identify fraud and abuse in Medical System." They verbally requested several of my patient records and the billing records. In general, these two individuals appeared very suspicious. Their actions were inconsistent with normal practice for acquiring medical information. They did not notify me in advance of their visits and I received no formal correspondence regarding their requests (Appendix A-1, my letter to Director of IDPR dated February 16,1994, pages 1-2; Appendix A-2, my letter to Mr. Roland W. Burris, dated February 16,1994, pages 3-4; Appendix A-3, my letter to Governor Jim Edgar dated March 3,1994, pages 5-7, Appendix B-1, original complaint, page 2; Appendix B-3, Memorandum to support motion to quash, page 8; Appendix B-7, page 28)

5. Following the incident on February 15,1994, I have made a complaint to their superiors including Ms. Nikki M. Zollar, director of IDPR and inquired her about the identities, conducts of these two individuals in question and the reason, justification for their conducts. (Appendix A-1, my letter to Director of IDPR dated February 16,1994, pages 1-2; Appendix A-2, my letter to Mr. Roland W. Burris,dated February 16,1994,pages 3-4; Appendix A-3, my letter to Governor Jim Edgar dated March 3,1994, pages 5-7)

6. While waiting for the response from Ms. Nikki M. Zollar, these two individuals in question came to my office again with various

requests, threats and intimidation on February 25,1994. As in the previous visit, I received no prior notification. This of course was very disruptive to my medical practice. (Appendix A-5, my letter to Ms. Nikki M. Zollar dated March 1,1994, page 9)

7. Approximately two weeks after my inquiry to Ms. Nikki M. Zollar, director of IDPR, these two individuals in question were identified by a letter of Mr. William B. Shlifka who was Chief of Medical Investigation of IDPR.(Appendix A-7, Mr. William B. Shlifka dated March 4,1994, pages 11-12) In Mr. William B. Shlifka's letter dated March 4,1994, one individual was identified as being Mr. Dave Walker, Illinois State Police and another being Steven Wagy, Investigator, but IDPR and Mr. William B. Shlifka did not provide me with any information to justify the actions and conducts of these two individuals. (Appendix A-4, a letter of Ms. Nikki M. Zollar dated February 24,1994, page 8, Appendix A-7, a letter of Mr. William B. Shlifka dated March 4,1994, pages 11-12)

8. State of Illinois et al, IDPR, Illinois Medical Disciplinary Board and State officials did not act in good faith. They intentionally engaged in the concerted efforts to discriminate against me because of my race and gender. These two individuals chose to discuss about me with my patients without my knowledge. I was later informed by several of my patients that the two individuals who represented State of Illinois officials went to their homes without prior notification. These two individuals went to see my patients from home to home, telling my patients that I have been under investigation. These two individuals also discussed with my patients in an effort to acquire information on my competency. Apparently, they acted under the veil of secrecy but lack of confidentiality and in their official capacity they have adopted "Gestapo type of activity" in their practice. (Appendix A-1, my letter to Director of IDPR dated February 16,1994, pages 1-2; Appendix A-2, my letter to Mr. Roland W. Burris, dated February 16,1994, pages 3-4; Appendix A-3, my letter to Governor Jim Edgar dated March 3,1994; pages 5-7; Appendix B-1, original complaint, page-3-4; Appendix B-3, pages 8-10; Appendix B-7, First Amended Complaint, page 26)

9. In my letter of March 1,1994, addressed to Ms. Nikki M. Zollar(she), I requested several information. However as of this date, she and IDPR have failed to provide me the requested information. (Appendix A-4, a letter of Ms. Nikki M. Zollar dated February 24,1994, page 8, Appendix A-7, a letter of Mr. William B. Shlifka dated March 4,1994, pages 11-12; Appendix A-8, a letter of Dr. Robert J. Schafer dated March 10,1994, page 13; Appendix A-12, a Notice of Informal Conference from IDPR dated August 4,1994, pages 18-19)

10. On March 10,1994, Dr. Robert J. Schafer, Medical Co-ordinator sent me a letter (Appendix A-8, a letter of Dr. Robert J. Schafer dated March 10,1994, page 13) requested me to release medical records of several of my patients. His letter was received in my office on March14,1994. With my good faith, I subsequently sent them the medical records to the best of my ability on March 22,1994. (Appendix A-9, my notification of sending the medical records via Express mail with proof, pages 14-15)) In his letter dated March 10,1994, the medical record were requested pursuant to Section 22(A) (38) of Medical Practice Act of 1987. The specific reason for their request was not given despite several of my requests for their actions. My serious concern is the possibility of fabrication and/or manufacturing of any evidence to justify their wrongdoings in the first place. (Appendix B-1, original complaint, page 3) I had not heard any thing from them at all until approximately 17 months later.

11. On August 7,1995, I received a notice of informal conference from Mr. David K. Igasaki, attorney and employee of IDPR, requested me to attend an informal conference on August 30,1995 at IDPR office in Springfield.The purpose was identified as a meeting to discuss "Brief Statement of Alleged Violation: On or about February 25,1994, respondent refused to furnish medical records lawfully requested by investigators of the Illinois Department of Professional Regulation."(Appendix A-12, a notice of informal conference dated August 4,1994, pages 18-19) At this point, I totally lost faith in IDPR and Illinois State officials. IDPR has falsified the fact and made the wrong allegation that I did not send them the

requested medical records.(Appendix B-1, original complaint dated August 29,1995, page 4)

12. On August 28,1995, I wrote a letter to Mr. David K. Igasaki explaining him that the requested medical records were sent to the best of my ability on March 22,1994. (Appendix A-13, my letter to Mr. David K.Igasaki dated August 28,1995, page 20)

13. Prior to the filing of this lawsuit, I received four correspondences from IDPR: a letter from Nikki M. Zollar dated February 24,1994, a letter of William B. Shlifka dated March 4,1994, a letter, a letter of Dr. Robert J. Schafer dated March 10,1994 and a notice of informal conference from Mr. David K. Igasaki dated August 4,1995 (Appendix B-1, original complaint dated August 29,1995, page 3)

14. It was impossible to acquire justice and fairness in dealing with them. Therefore, I had to seek justice in the federal court in order to afford an impartial judge to acts as a referee in the proceedings; and be permitted the opportunity to prove my complaints/claims in the court of law, before a panel of impartial juries.(Appendix B-1, original complaint, page 4 ; Appendix B-7, First Amended Complaint, page 30) Unfortunately, the district court consciously dismissed the case with prejudice.(Appendix B-4, court order dated December 6,1995 page 17-22; Appendix B-12, Court order dated March 22,1996, page 65-76, Appendix B-13, Court order dated April 1,1996, pages 77-80) The dismissal of the case was premature and there was a lack of Initial Disclosure, Discovery, and Pretrial Process. I have no other choice but to seek justice in the United States Court of Appeals for the Seventh Circuit.

15. I provided the court and the Defendants-Appellees my review and interpretation of Section 22(A) (38) of medical Practice Act 1987. (Appendix B-7, First Amended Complaint, pages 29-30, Appendix B-9, memorandum in support of motion for injunctive relief, page 46) According to my recent legal research and review, 225 ILCS 60 Section 22(A) (38) of Medical Practice Act 1987 is one of the 38 grounds for the disciplinary actions and states "Failure to furnish the Department, its investigators, representatives, relevant information

legally requested by the Department after consultation with the Chief Medical Coordinator or the Deputy Medical Coordinator." Relevant information is not the medical records.Conversely, medical record is not relevant information.Relevant information in 225 ILCS 60/22(A)(38) of the Medical Practice Act 1987 becomes a subjective term in this instance as there was no charge against me, and no allegation against me prior to their initiation of investigation and prior to their request for the medical records. This provision of Illinois Statute appears to be neutral and fair on its face, however it is intentionally applied, and administered in a discriminatory fashion against me by the State of Illinois et al, IDPR, Illinois Medical Disciplinary Board and the State officials. They are sophisticated discriminators and skillfully use medical record issue as a discriminatory tool/ device in their discriminatory practices. (Appendix B-7, First Amended Complaint, page 32) Apparently, the medical record is the modern version of the old Iron chain that they use to shackle me (Appendix B-10, Memorandum to strike, page 58)

IV. Statement of case

This is an appeal to the Seventh Circuit for "Justice" and "Correction of the Errors by the District Court." It is of course the reversible errors. It is an appeal from an order entered dated March 22,1996, an order entered dated April 1,1996 and a final judgment entered dated April 2,1996, by the United States District Court for the Southern District of Illinois, dismissing a racial and gender discrimination complaint by Appellant seeking relief from damages, and protective injunction. By virtue of the failure of the District Court to grant me a protective injunctive relief and intentional discriminatory action on the part of the Appellees, IDPR and State officials, I have lost my Illinois Medical License.

The proceedings in the District Court consisted of filing of complaint, pleadings, motions and other papers. There was a lack of initial disclosure, discovery process, pretrial discovery and jury trial. There was one hearing for my motion for protective injunctive relief on March 28,1996. Obviously, the hearing was set with the purpose to allow the Defendant-Appellees to introduce the surprised exhibitions and surprised witnesses to benefit them.The dismissal of my complaint was premature and with prejudice.

V. Standard of review

The concept of justice; concept of reasonableness; and the application of the right legal concept to the facts are the standard of review in this case. "Justice" means an impartial administration of laws of the land to make it just and fair to everyone. There is no agreement among scholars of law and society on the definition of law and its precise functions. From a sociological perspective, the rules of law are simply a guide for action. Law cannot execute or function on its own. Law must be applied to the law enforcers as well as to those under the enforcement of the enforcers. Without interpretation and enforcement, law would be meaningless. According to Black's Law Dictionary, the definition of law is "in its general sense, a body of rules of action or conduct prescribed by controlling authority, and having binding legal force."

With reference to its origin, law is derived from judicial precedents, from legislation, or from custom. Law is a social institution, not a mysterious science. Law can be interpreted through normal thinking, reasoning and the exercise of common sense. It does not need the rocket scientist to interpret the law. Ordinary persons are competent to interpret and comprehend the law. If not how in the world we can expect the law to function as a guide for the conducts when only few people besides judges and lawyers know the law. The answer to this is that we expect the law be written in good faith, be part of morality, and in conformity of customary practice in the society. Law is useless and incomplete without a back up by morality, and only morality can effectively enforce the law. Morality makes an individual able to distinguish between right and wrong and automatically act in conformity with the law without knowing exactly what words are written in the law. If the law is not just and fair, it is useless and should be abolished.Law is a form of social control and for social peace. Both law and the application of the law must be fair and equal to everyone. If not, it is impossible to find peace in the society.

Case precedents have many limitations. The doctrine of precedent is itself a contested concept for many reasons. First of all, an analysis of the case precedents is a form of tunnel vision with inadequate light that is easy for the reviewers to overlook or underestimate the issues or perceive the distorted view. Secondly, there is a question as to what set of principle best justified the precedents. The answer to this question is quite simple that it is the principle of fairness. The justification of the precedents is that fairness is achieved by "treating the like cases alike." This may be superficially sound good. However, some past decisions were mistake. Therefore, it is not fair and wise to repeat the mistake time and again. Someone may argue that the purpose of using the case precedents is to insure the consistency of the decisions. Consistency in making decision is meaningless if it is unjust. Why in the world anyone wants to follow the same old mistakes and be consistently wrong all the time. Certainly, it must be time that the court decision in this case sets the new precedent for the future. Thirdly, precedents expressed as examples, not the rules or laws, unfortunately, the case precedents have been used as a rule-governed activity which undoubtedly facilitates the certain tasks that lawyers and courts perform. Precedents are very good materials for the historians but not necessarily good for the court to use as a rule or law in deciding the case at hand. The decision makers must mindful analyze the case, interpret the law and adapt the law to a particular case at hand in order to make it just and fair. The case precedents must be similar to this particular case at hand in its' subject matter, nature of the case, issues and circumstance otherwise, it should not be used in deciding the case at hand at all.

The application of the right legal concept to the facts is utmost important in achieving just decision. It requires individuals with integrity, wisdom, insight and good judgement to perform the honorable task of decision making in order to achieve justice. It is absolutely this honorable task of judgment that makes the judges be highly honorable.

This is a case of federal question, the constitutional question.The decision maker must apply the Fourteenth Amendment of the United States Constitution in this case.

VI Summary of Argument

I am a victim of Racial and Gender Discrimination. It is very obvious that there was the statement of claim for relief in both original complaint, first Amended Complaint and Memorandum. The Appellees, IDPR and State officials violated my fundamental rights guaranteed by the Fourteenth Amendment of the Constitution, and there is no Constitution or law of any kind that provide immunity for those who violate the law especially, our Constitution Law. I am entitled to the relieves sought which was listed under the Statement of issues of this brief.

VII. Argument

It is a distinct privilege for me to become a citizen of the United States of America by choice. In so choosing, I have been a part of the greatest country in the world. A land of extraordinary natural beauty, a land of strength and pride, a land of God's precious grace and glory. As Americans, we share in the blessing of liberty and freedom. Freedom is not only a state of mind but it is an essential way of life. I believe in the government of the United States of America that it is the "government of laws, not of persons." I believe in our Constitution as the supreme law of our beloved country. Its guarantees of life, liberty, and property have made possible the great American way of life.The United States of America is a nation of freedom loving people. I believe that living in the society with freedom enable us to choose between what is right and what is wrong and has freedom to choose to do right. Liberty and freedom are our most precious heritage that we treasure with all our hearts. Our country created a system of law and of government in which fundamental rights and freedom would be linked with the enforcement of justice. Without the enforcement of justice, human rights and freedom will be in jeopardy.

I am always mindful that within the fundamental rights, there is duty and responsibility. As a country that pride itself of civilization, the greatest advance in Medical Research, Science and technology, everyone of us has a responsibility to care and be passionate toward others.

I have been practicing medicine for almost 20 (twenty) years. I find a great deal of satisfaction in providing medical care to those most in need. I strive to provide my patients with the best possible care regardless of their race, gender, position or status in society, or ability to pay. The majority of my patients are women, children, African-Americans, socio-economically disadvantaged population and some working individuals who do not have medical insurance. Unlike many of my collegues, I am not wealthy, I am only a small town doctor. However, success and contentment cannot be measured in material wealth. I have been very happy, living in a very simple life. My goals are to maintain the highest possible ethical standards; to be professional and honest; to provide the best medical care to the patients with kindness and compassion; to comply with rules& regulations established for my profession; and to excercise commonsense moral code, and keep peace of mind. I have made every effort to utilize by medical knowledge, skill and expertise to benefit humankind and be worthy of our nation.

Although, I am experiencing extremely difficult problem, I am nonetheless very fortunate in many respects. I am grateful to become an American citizen and to live in this beautiful and wonderful country. I am thankful for the freedom that I enjoy in America.

Because of my personal commitment to contribute to our beloved country by utilizing my medical skill and knowledge in medical practice to benifit our fellow Americans; my sincerity; my devotion to my patients and my profession. I find the intentionally discriminatory practices of the Appellee, IDPR and State officials to be devastating. My conscience, dignity and integrity give me the courage and strength to stand up and fight for freedom and justice. I do not have intention to hurt anyone. I believe it is my duty and responsibility to fight for freedom and justice which are our most precious heritage.

I represent myself in this case due to the simple fact that I cannot afford the competent attorney to represent me. My fundamental rights have been violated by the discriminatory action on the part of the Appellees, IDPR and State officials, and it is impossible for me to have freedom and live in peace when I have been suffering from discrimination, and injustice to the extreme extent that I lost my Illinois Medical License in pursuit of "Freedom and Justice." My dignity and integrity dictate me to seek justice in the Federal Court. I believe I have done the right thing in pursuing for "Freedom and Justice" and requesting the court to "Enforce Justice." The fact that I am permitted to commmunicate with the court is an example of the true meaning of "life, liberty and pursuit of happiness."

I would like to present the statement of arguments in the sequence as listed in the statement of issues.

1. (A) Failure to state a claim for which relief can be granted

The main issue of this lawsuit is Racial and Gender Discrimination. However, I would like to provide the Seventh Circuit with a thorough review of the District Court order dated December 6,1995 (Appendix B-4, court order, pages 7-22) as a background information and/or history of its decision. Many times, history indicates the pattern of decision.

(i) I filed a racial and gender discrimination complaint/lawsuit against Defendants-Appellees with the United States District for the Southern District of Illinois on August 29,1995. The court dismissed my complaint for failure to state a claim for relief and allowed me to amend my complaint within 30 days.(Appendix B-4, court order entered dated December 6,1995, page 22) Upon my request for the extension of time to file my First Amended Complaint (Appendix B-5, my request for extension of time and protective injunctive relief, page 23), the court granted me to file my First Amended Complaint on or before February 6,1996.(Appendix B-6, court order dated December 11,1995, page 24)

(ii) In the memorandum and order of the court dated December 6,1995, the court stated

> "In ruling on a motion to dismiss a complaint for failure to state a claim, the district court takes as true all facts alleged plus the reasonable inferences therefrom and determines whether--under those assumption-- the plaintiff would have a right to legal relief."

(Appendix B-4, court order dated December 6,1995, page 19). Apparently, the district court takes my complaint as true all fact alleged but denies the existent of the claim for relief.

(iii) The district court also described in the footnote number 2

> "Plaintiff's October 23,1995 memorandum in support of motion to quash (Doc.8) suggests several *potential* sources for her claims, but she has not moved to amend her complaint to include any of these statutes or laws."

(Appendix B-4, court order dated December 6,1995, page 19) This court statement is obviously contradict to the statement on the top of the very same page of this document which stated "Complaints need not identify the precise statute upon which the claim is based, and the plaintiff need not plead every factual allegation necessary to prevail." The fact is several potential sources for my claims were added in my First Amended Complaint (Appendix B-7, page 25-35) according to the recommendation of the court. However, the district court dismissed my First Amended Complaint for the very same reason that it was a failure to state a claim for relief.The district court further stated in footnote number 4

> "Plaintiff's memorandum (Doc.8) lists other possible bases for this action, but the Court's role is not to exhaustively analyze the

> potential bases for Plaintiff's lawsuit or to replead her complaint for her."

(Appendix B-4, court order dated December 6,1995, page 22) If the court did not exhaustively analyze the complaint, how could it make a decision. In addition, how anyone can draw a line between what is exhaustive and what is not. This is simply unjust and cannot be upheld. The overall ruling is shallow, contradictory and lacking in subtance.

(iv) A Review regarding the Racial and Gender Discrimination Complaint

I filed my First Amended Complaint with the District Court on February 5,1996 and filed the addendum of the First Amended Complaint on February 6,1996. Racial and Gender Discrimination claim/complaint with discriminatory effect.was stated very clearly in both original complaint and my First Amended Complaint. The Appellees engaged in concerted efforts in their intentionally discriminatory practices against me because I am a female, Asian-American physician, a racial minority, a microscopic minority. The discriminatory impact on me is enormous. Besides pain, suffering, financial loss, I also lost my Illinois Medical License as a result of the discriminatory practices and retaliation on the part of Appellees, and IDPR. This is unjust and unfair to me when I have not done anything wrong.

Pain and suffering are unique in that the feeling is personal, not a universal. Only the person who suffers from pain can feel the pain. It is very difficult for someone else to develop the total understanding of the degree of pain and sufferings of others until those individuals encounter the same circumstance. It requires the higher developed mind with kindness and compassion to understand the sufferings of others.

Action and behavior are the product of the person's own conscious choice. Of course, no discriminators will admit to the practice of racial and gender discrimination because it is illegal and immoral.

Their actions and practices declare their intents. Actions always speak louder than words. The fact that the Appellees, IDPR and State officials perpetuate their discriminatory practices and keep the discriminatory investigation alive for more than two years indicate their discriminatory intents.

In Memorandum and order of the District Court dated March 22,1996, the court stated "Local Rule 7(b) provides that pleading shall contain all allegations which a party intend to pursue."(Appendix B-12, court order dated March 22,1996, pages 65-76) I have amended my original complaint (Appendix B-7, first amended complaint, page 26-34) and the memorandum to Quash (Appendix B-8, pages 8-9) to be a part of my First Amended Complaint, however the district court denied it for the reason given in the Court order that once the original complaint was dismissed, it is as if it never existed. This is very strange, how in the world the court can make just decision when it does not use all material facts and documents in consideration when making a decision.

In my analysis of the facts, I would like to provide the Seventh Circuit with the proofs of the Appellees'discriminatory intent as follows:

(a) Absence of Justification
(b) the Use of Discriminatory Devices/ tools/ Instruments
(c) Availability of Discretionary Administrative System
(d) Awareness of Discrimination
(e) Administration of law/ statute in Discriminatory Fashion
(f) Procedural Departure
(g) Substantive Departure
(h) Disproportionate Impact
(i) Mixed Motives (Discriminatory and Retaliation Intents)
(j) Historical Background

(a) Absence of Justification

References to the Statement of facts in this brief, the two individuals of Illinois State officials came to my office without prior notification in order to conduct "Random Investigation to identify fraud and abuse in Medical System." Random is defined in Webster's Collegiate Dictionary 1993 as 1 a: lacking a definite plan, purpose, or pattern b: made, done, or chosen at random 2. has equal probability of occurrence(~ sample). They did not explain me the rationale utilized in their selection of individuals to be investigated. A random investigation without predetermined criteria to obtain equal probability of occurrence is an indication of selective investigation. At the time of the unannounced visit on February 15,1994, these two individuals confirmed me to the fact that there was no complaint or any allegation against me. Mr. Steven Wagy is an investigator from Springfield, Illinois. Mr.Dave Walker is an Illinois State Police from Collinsville, Illinois. The fact that the two individuals from different locations entered my office at the same time on February 15,1994, and again on February 25,1994 indicates that they have planed to do so. I strongly believe that I was specifically chosen for "Random Investigation" because of my race and gender. Racial minority and female gender are the easy target for the discriminatory investigation. Everyone must be mindful to the fact that there is no law and /or rules and/or statute of any kind that allow the conduct of "Random Investigation or Investigation with no ground." Investigation without the specific thing to look for is an indication of "fishing expedition" or "witch hunt." Random Investigation by its definition represents discrimination. It is done without any reasonable basis abd therefore is purely arbitrary and outright discrimination against me.

Furthermore, their investigative practices are deceptive, unprofessional, unethical and completely different from standard of investigation. In spite of my requests for the reason of their investigation, and conduct, they have failed to provide me with anything that would justify their conducts. Even in their responsive pleadings filed with the District Court, they have failed to come up with any justification of their investigation and conduct.

In their memorandum to dismiss my original complaint (Appendix B-2, memorandum, page 6), they stated "The Illinois Department of Professional Regulation is, by statute, empowered to investigate *potential violation* of Section 22 of the Medical Practice Act of 1987."The fact is I have neither made any offense nor been notified of any charge prior to their random investigation and prior to the request for medical records. According to Black's Law Dictionary, the word "potential" means existing in possibility but not in act, naturally and probably expected to come into existent at some future time, though not now existing. Potential violation by its definition represents discriminatory practices. There are no reliable predictive criteria that can be used to identify individual with potential violation in advance. No one in the world possesses the psychic power to know who will violate the law in advance. It is also an indication that they have placed me in "suspect"class, therefore considered me to be a "Potential Violator,"subject to their Random Investigation.

(b) the Use of Discriminatory Devices/ tools/ Instruments

The skill, knowledge and the use of Discriminatory Tools and/or Devices indicate their intention to discriminate for they are capable of using the right tools to serve their goals. In this case, Random Investigation, Investigation with no ground, Investigation of Potential Violation, and collecting of Medical records are their discriminatory tools that they use in order to harm me by all means, including suspend my Illnois Medical License. Obviously, these tools are the modern version of the old Iron chain that they use to shackle me. These tools are available to them to be used in their official capacity at their discretion.

(c) Availabilityof Discretionary Administrative System

The Appellees have the luxury of Administrative System to be exploited at their discretion. The hearing in IDPR office is another discriminatory tool and/ or technique that they use to deceptively portray as a due process in order to suspend my Medical License. In reality, **it is not the due process in the concept of the Constitutional law,** i.e. IDPR office is not a court of law; the decision and julgement are unilateral, it is not made by the panel of impartial juries it is not made by the juries of peers of the accused, and no public record, etc. It is basically an internal affair of administration. In addition, **the fundamental fairness in constitutional concept requires the separated powers doctrine.**

Power is typically separated into 3 (three) branches: legislative, executive and judiciary which is totally different from administrative organization and structure in IDPR.The administrative organization in IDPR reveals that Investigative, Prosecuting and Judiciary functions are all performed by IDPR. This type of administrative structure of IDPR automatically makes IDPR a single agency of combined powers which is contradict to the due process in constitutional law. This sort of combined powers also allows agencies to act more arbitrarily, to abuse, to misuse, to discriminate, to use adhoc solutions and sanctions rather than just resolution formally prescribed by standing law. Delegations of all 3 (three) powers to a single agency also degrade the rule of law. IDPR becomes a single agency with Super-Power.

The Appellees, IDPR act as police, prosecutor, judge and jury at the same time in their Administrative setting. They are well aware of the availability of this Administrative System and have successfully used it to the extreme extent to suspend my Illinois Medical License in discrimination and retaliation. Medical record issue and the suspension of my medical license are the administrative manifestation of discrimination.

(d) Awareness of Discrimination

The issue of discrimination has been raised since the time of random investigation.They have perpetuated discriminatory practices and kept the investigation alive for more than two years. Actions and behaviors are the products of their own conscious choice. They have full access to the information of their own behaviors. They must be aware of their behaviors of discrimination since they know to use the right tools for their job.

(e) Administration of law/ statute in Discriminatory Fashion

Upon my recent legal research and review, I was shock and stunned by my discovering that **Illinois Statute, Section 22(A) (38)of Medical Practice Act 1987 contained loop hole for abuse and discrimination. They intentionally apply Section 22(A) (38)of**

Medical Practice Act 1987 in discriminatory fashion as I have mention before in the First Amened Complaint, Memorandum to support motion to strike, and Memorandum to support motion for protective injunctive relief and Statement of Facts of this brief. This section of Medical Practice Act 1987 appears to be fair and neutral on its face, however it provides a gateway for them to intentionally abuse, misuse, and discriminate as it has occurred in my case. Apparently, they have seen all 38 grounds for disciplinary action and discover that the last number contains a loophole that they can use to discriminate against me. The word relevant information in number 38 of this section are a subjective term. It can only be interpreted that it is relevant to their discriminatory intents since there was no charge or allegation against me prior to their request of the medical records pursuant to Section 22(A) (38) of Medical Practice Act 1987.

The medical records can also be used as the discriminatory tool at their discretion. Any time that they want to discriminate against any physicians, all they have to do is requesting for the medical records in accordance to number 38 of the section 22(A) of Medical Practice Acts. Once they obtain the medical records, they are able to make more allegations to fit to the grounds' number 1 to 37. If they could not find anything wrong to make more allegations, all they needed to do was making an allegation that the physicians did not send them the requested medical records and proceeded to suspend medical license any way. I have encountered this devastating experience. I can only pray, and hopefully my voice will be heard by the sympathetic ears someday.

(f) Procedural Departure and (g) Substantive Departure

The Appellees, IDPR and State officials have used the investigative procedure without a rational explanation, inexplicably departed from the established procedure. The procedure used was rested upon an impermissible basis that is in discrimination against me as a racial minority of female gender.

Under our laws, it is illegal for State of Illinois, IDPR and State officials to send the two individuals in their official capacity to random investigate me in my office and to collect medical records for "Random Investigation" without prior notification and without reason. Apparently, they have adopted "Gestapo" type of activity by sending the two individuals to run around to several of my patients' homes without prior notification in an attempt to acquire information about my competency. These two individuals told my patients that I was under investigation. This of course undermined my reputation and credibility.Their activity was deceptive, unprofessional, unethical and obviously departed from the standard procedure of medical investigation. They conduct investigation under the veil of secrecy but lack of confidentiality which is totally departed form standard investigation in its procedure and substance.

In addition, pursuant to Section 22(A) (38) of Medical Practice Act 1987, medical records must be requested by the Chief Medical Coordinator or the Deputy Medical Coordinator. Dr. Robert J. Schafer is neither Chief Medical Coordinator or Duputy Coordinator.

(h) Disproportionate Impact

One day after I filed a notice of appeal with the District Court, the Appellees and State officials managed to indeinitely suspend my Illinois Medical License. This action was based on the false allegation that I did not send IDPR the requested medical records of my patients, as such she (Shari Dam) concluded that I violated Illinois Compiled Statutes (1992), Chapter 225, Act 60, Section 22A (38). I have informed IDPR repeatedly that the requested medical records of my patients were sent to the best of my ability via express mail on March 22,1994. I have the return receipt showing the receipt date March 23,1994.

Furthermore, I repeatedly requested them to postpone the hearing status until the discrimination lawsuit is resolvedby the court. If they did not discriminate against me, they should allow the legal process to proceed in an equitable manner in order to prove themselves in the court of law. The most important thing is I have never make any offense. However, they have falsified the fact about the medical records, and misused the Administrative system to suspend my

Medical License. The negative impact on me is completely out of the proportion of the allegation especially when I did not do any wrong or violate any of Illinois Statute or Law. The worst thing is that they have falsified the fact, made the wrong allegation and proceeded to suspend my Illinois Medical License. They have made an extremely big issue out of the medical records. One simple question is "Does this medical record issue make me a bad doctor?" The answer to this is absolutely "No." The disproportionate impact is also an indication of their discriminatory intent.

(i) Mixed Motives (Discriminatory and Retaliation Intents)
During pendency of the District Court proceedings, they perpetuated intentionally discriminatory practices against me and finally suspend my Illinois Medical License. Obviously, their actions indicate that their discriminatory motive is compounded by the intent of retaliation. IDPR, and State officials are not medical doctors. Even though, they cannot make a good use of my Medical License, they chose to suspend my medical license in order to harm my patients and me.

My Medical License is a legal invention. Although, it is the property created by Illinois Statute, I have the right of the ownership of my Medical License. It is illegal and abuse of power to unjustly taken my license away without my consent.

There is absolutely no doubt that intentionally discrimintory practices with discriminatory effects exist. They violated my fundamental rights guaranteed by the Fourteenth Amendment of the United States Constitution. Section one of the Fourteenth Amendment of the U.S. Constitution is the basis of my claim. I have provided adequate facts and evidences to support my claim of Racial and Gender Discrimination. It is sufficient to shift the burden of proofs to the Defendant-Appellees.They must be required to come up with the proofs that they did not and have not intentionally discriminated against me.

1 (B) Eleventh Amendment cannot be used as a bar for a lawsuit when the Defendants-Appellees violate my fundamental rights

guaranteed by the Fourteenth Amendment of the United States Constitution.

Every one must be mindful to the fact that there is no law or rule or constitution of any kind that provide immunity for the Appellees and State officials who violate the law especially the Fourteenth Amendment of the United States Constitution. Every one including the Appellees and State officials must stand equal before the law. They do not have the privilege of immunity whatsoever. The District Court erred in applying Eleventh Amendment as a bar for a lawsuit.The District Court cited a case "See ***Will v. Michigan Dept. of State Police,*** 491 U.S.58,66-67 (1989) (Eleventh Amendment bars suits for deprivation of civil rights unless the State has waived its immunity)." Mine is a constitutional case that is under the protection of the Fourteenth Amendment of the United States Constitution.

In addition, the Eleventh Amendment of the United States Constitution (1798) was proposed to the legislatures of the several States by the Third congress, on the 5th September,1794, and was declared in a message from the President of Congress, dated the 8th of January, 1798, to have been ratified by the legislatures of three-fourths of the States. The Eleventh Amendment of the United States Constitution 6 was enacted approximately seventy (70) years before the enactment of the Fourteenth Amendment of the United States Constitution (1868). Therefore, it is impossible that the Eleventh Amendment of the United States Constitution was enacted for the purpose of providing the Appellees and State officials an immunity for a lawsuit when they violated the Fourteenth Amendment of the U.S. Constitution. The Fourteenth Amendment was proposed to the legislatures of the several States by the Thirty-ninth Congress, on the 16th of June,1866. The Secretary of State issued a proclamation, dated the 28th of July,1868, declaring that the proposed Fourteenth Amendment had been ratified.

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6 *The Eleventh Amendment of the United States Constitution* (1798)

1(C) The use of wrong legal concept to the facts and made wrong decision.

The District Court cited several case precedents to be used in making decision of my case. However, those case precedents were totally different from my case in the subject matter, nature of the case, issues and circumstance, etc. It is inappropriate and unfair to utilize those irrelevant case precedents in deciding my case. The general justification of utilizing the case precedents is that treating the like cases alike; use only the past decisions that were just and fair; and use as a guide not as a rule governed activity. The Fourteenth Amendment of the United States Constitution should be applied to this case.

The government of the United States is one "of laws and not of persons," it must grant a remedy for violation of vested legal rights. The United States Constitution is the law of the land which is supreme. Therefore, an act or rule or law repugnant to it must be invalid. It is this concept of constitution as the supreme law of the land, and the judiciary as the institution with final responsibility to interpret that law, and enforce the law by just decision. The United States Constitution is simple and is possible to interpret and administer to protect the fundamental rights of all citizens.

In the court decision and order dated March 22,1996, and April 1,1996, there was no showing that the District Court analyzed the provision of the Fourteenth Amendment of U. S. Constitution as the basis of my claim in making its decision. The District Court denied my rights to jury trial, a fair trial, due process and equal protection of law. There was a lack of discovery process and pretrial procedure. There can never be a fair trial since there was no fair pretrial and discovery process in the first place. Failure to enforce the Fourteenth Amendment of the Constitution has caused a lot of damages on me as a victim.

Law must be used for a reasonably accurate solution to a given problem. The Fourteenth Amendment of the Constitution must be applied to this particular case in order to protect me against the

Appellees, IDPR and State officials who violated my rights in the provisions of Federal Civil Rights, Human Rights Act of Illinois Constitution, Act 60, Medical Practice Act 1987 in Illinois Statute and the Fourteenth Amendment of Constitution. Bill of Rights is incorporated in the Fourteenth Amendment of the Constitution as the guarantees of equal protection of fundamental rights of all American citizens.

The intentionally discriminatory practices and the suspension of my Illinois Medical License by the Appellees, IDPR and State officials violated my rights guaranteed by the "due process" and the "Equal protection" clause of the Fourteenth Amendment. They abused the availability of their Discretionary Administrative System in discrimination and retaliation against me. The Administrative hearing in IDPR office is neither "due process" in the constitutional concept nor "due process" under the provision of the Fourteenth Amendment. I have make an explanation about the Administrative system, structure and organization of IDPR earlier in the argument section of this brief on page 27. Actually, the Administrative hearing in IDPR office is no different to "Ritual event" to kill the sacred cows. Certain procedure and conduct must be performed in order to ensure the proper conduct of the ritual. Even though, the conduct may be improper, the performers are always safe but the cows always get kill no matter what. The hearing in IDPR office serves as a tool for desired outcome. Consequently, I have lost my Illinois Medical License which is my property. In my case, the ritual of hearing in IDPR office was done for the purpose of discrimination, suspension of my Illinois Medical License and retaliation.

The object of the Fourteenth Amendment of the United States Constitution was undoubtedly to enforce the absolute equality of races before the law.

> "The equal protection clause was designed to impose upon the states a positive duty to supply protection to all persons in the enjoyment of their natural and inalienable rights--especially life, liberty, and property-- and to do so equally."7

The injunction that no state "shall deny any person within its jurisdiction the equal protection of the laws" might appear at first glance to be simply a demand for administrative fairness, the historically familiar assertion that all men must stand equal before the law, that justice must be blind to wealth or color, to rank or privilege. But early in its career, the equal protection clause received a formulation which strongly suggested that it was to be more than a demand for fair or equal enforcement of laws; it was to express the demand that the law itself be "equal."8

The Bill of Rights applies to the States by virtue of the Fourteenth Amendment. For, if it does not, the Bill of Rights will be without constitutional warrant and will be of no value.

> "It cannot be doubt that among the civil rights intended to be protected from discriminatory state action by the Fourteenth Amendment are the rights to acquire, enjoy, own and dispose of property. Equality in the enjoyment of property rights was regarded by the framers of that Amendment as an essential pre-condition to the realization of other other basic civil rights and liberties which the Amendment was intended to guarantee."9

There is no doubt that the Fourteenth Amendment was intented to provide the individual citizen of the United States the equal protection against state action in the enjoyment of "life, liberty and property" for these conditions are the prerequisites of other basic civil rights.

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7. Tussman and tenbroek, *The Equal Protection of the Laws*, 37 Calif. L.Rev. 341(1949)

8. *Id* at 342

9. *Shelly v. Kraemer* (1948) 334 US 10

> "The Constitution does not require that things different in fact be treated in law as though they were the same. But it does require, in its concern for equality, that those who are similarly situated be similarly treated."10

The requirement of real equality was so far stressed as to suggest that at least in Medical Profession, nothing short of identical treatment would satisfy the constitution.

One of the example of erromeous in using the case precedents in ruling my case is that the District Court cited a case *Obasi V. Illinois Dept. of Profession Regulation*, 639 N.E. 2d 1318 (Ill. App.1994).11

In the Discourt order dated March 22,1996, the court erred in claiming that Obasi case was similar to my case in facts and allegations brought against several of the same defendants named by Young. According to my review of this case, Obasi case had nothing in common to my case with the exception that he is also a medical doctor. In Obasi case, he was charged with abandonment, carelessness, gross negligence due to the complications of the surgery for his patients. One of his patient had perforated uterus, required emergency surgery and a total abdominal hysterectomy. His Medical License was revoked because of these charges. Whereas in my case,I am a competent physician, I have never do harm to the patients. The only allegation brought against me was a false allegation that I did not send IDPR medical records. Furthermore, the medical records were requested for "Random Investigation" which is obviously discrimination. This supports the notion that things that different in facts must not be treated in law as if they were the same.

2 (A) The vital issue is a loss of my Illinois Medical License as a result of discriminatory action and retaliation by the Appellees.

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10 Tussman and tenbroek, *The Equal Protection of the Laws*, 37 Calif. L. Rev.344(1949)

11 *Obasi v. Illinois Department of Professional Regulation*, 639 N.E.2d 1318 (ILL. App. 1994)

I am a victim of racial and gender discrimination and aggrieved party. I sought a protective injunctive relief with the District Court since the filing date of my original complaint on August 29,1995.

In my initial complaint of August 29,1995, I requested in ' 1 ' and '2' that the court

> "1 enter the court order to compel the State of Illinois, the IDPR, all defendants, their officers and/or any relating agency to discontinue all investigation, and any action related to and/or against Dr. Yavarace Young, M.D. until the resolution is reached by the court; 2 enter a court order to prohibit the State of Illinois, IDPR, all defendants, their officers and/or any relating agency from initiating any action related to and/or against Dr. Yavarace Young M.D. during pendency of court trial."

My memorandum to support "motion to quash the defendants' motion to dismiss cause number 95-655-PER" filed with the district court on October 23,1995 (Appendix B-3, memorandum, page 16) once again delivered my request for injunctive relief. Specific justification for my request was provided in item IV, page 9 of this document.(Appendix B-3, memorandum, pages 7-16).The detailed subject matter was provided to the court. In the memorandum and order of the court dated December 6,1995 the court referenced my injunctive relief request in Section I, paragraph three, of the introduction part (Appendix B-4, court order date December 6,1995, page 19) by stating

> "Young seeks : (a) a court order compelling Defendants to cease their investigation and prohibiting Defendants (and all relating Illinois agencies) from initiating any actions against her during the pendency of this case;"

In my correspondence of December 8,1995, (Appendix B-5, 23) I asked for the third time that the injunctive relief be granted. In my correspondence of December 21,1995, I asked the court for the fourth time that the protective injunctive relief be granted. However, the Defendants-Appellees and their attorney objected to this correspondence of December 21,1995 and filed a document entitled "Objection to Correspondence" claiming that this correspondence was not a "properly pleading." On January 17,1996, I filed a motion to vacate the defendants' objection to correspondence. The court denied my motion.

Pursuant to the court order dated December 11,1995, I was allowed to filed the First Amended Complaint on or before February 6,1996. I filed the First Amended Complaint with the clerk of the court on February 5,1996 and filed the addendum of the First Amended Complaint on February 6,1996.

In my First Amended Complaint, I once again respectfully requested the court for the immediate issurance of the protective injunctive relief. The justification of my requested was provided: a) My claim has merit to prevail, 2) I will suffer irreparable harm in an absence of injunctive relief, 3) The irreparable harm suffered in the absence of injunctive relief outweights the irreparable harm the Appellees will suffer if the injunction is granted, 4) the moving party has a reasonable likelihood of prevailing on the merits, and 5) the protective injunctive relief will not harm the public.

On February 20,1996, I filed a motion for protective injunctive relief with memorandum. Once again, I delivered the justification for protective injunctive relief. I have explained about the hearing and the proceedings in the District Court on March 28,1996 in the Jurisdictional Statement, pages 8 to 12 of this brief. The hearing and the proceeding on March 28, 1996 were prejudice. My concerns regarding the fabrication/manufacturing on the part of the Appellees have become a reality on this hearing date. Obviously, they introduced the materials of fabrication and/or manufacture in an attempt to justify their wrongdoings and intentionally discriminatory practices against me in the first place. I made objection to their introduction of surprised Exhibitions and surprised witnesses but the court over rule my objection. It requires a discovery process and the proofs before these exhibitions be allowed as evidence in the court room during the hearing. It is difficult to prove authenticity of the

Exhibit 1-3. Even if it is authenticate, it can only be determined that it is the authentic fabrication for its content is fabricate.

As I stated to the court during the hearing that the truth is the truth, lie is always a lie, reality is reality. The fact that there may be 2, 3, or 10 people tell the same lie does not make the lie becomes the truth. It can only be interpreted as an amplification or multiplication of lie. Contrary to the truth, even one person tells the truth, the truth is still be the truth.

Despite my justification to fulfill my request for protective injunctive relief, the District Court totally ignore my explanation and denied granting me the request with prejudice.

The District Court order dated April 1, 1996 stated

> "First, she has failed to demonstrate any likelihood of success on the merits of her federal discrimination claim against the remaining defendants, --- and Young has not established that she lack a remedy at law. When she obtains a final decision from the Director of Illinois Department of Professional Regulation, she has a right to seek judicial review in the Illinois Circuit Court. Thus she does have a remedy at law available. That remedy lies outside this court."

(Appendix B-13, Court order dated April 1,1996, page 74) The District Court concluded at the end "The motion for injunctive relief (Doc.17) is hereby denied and the amended complaint (Doc.14) is hereby Dismissed with prejudice."

The court hearing and proceeding in the District Court on March 28,1996 were prejudice, therefore, the court decision was prejudice. The District Court utilized the case precedents that were entirely different from my case in facts, subject matters, issues and nature of the case. I would like to praise the District Court for it consciously recognized that the dismissal of protective injunctive relief was with prejudice. Apparently, the merit of my claim was lost when the District Court conciously ignored my claim, used the wrong legal concept to the facts and told me to seek justice in Illinois circuit court after I lost my Medical License. This is unjust, unfair and demonstrates a failure of the administration of justice.

I filed a notice of appeal on April 16,1996. IDPR made an order to indefinitely suspend my Medical License on April 17,1996 in discrimination and retaliation. It is an extremely experience to suffer from discrimination, injustice and a loss of my Medical License when I did not do anything wrong.

I filed a motion for a court order to immediately vacate an order of IDPR to suspend my Medical License. My Medical License is of paramount importance in order to safeguard me from permanent damages of losing Medical Licence and Medical Practice; to permit me to acquire fairness and just resolution in the court of law; and to allow me to continue practicing medicine to benefit mankind which is my primary job. I respectfully request the Seventh circuit to review this motion and grant me an order to vacate an order of IDPR to suspend my Medical License.

(B) Seeking justice in the Court of Law. The proceedings in the District Court involved mainly of filing complaint, motion and other papers. There was a hearing on my motion on protective injunctive relief after 7 months of my filing of original complaint. The District Court ignored my request for discovery process, fair pretrial process, and fair trial before a panel of impartial jury. I respectfully request for trial in the Seventh Circuit and discoery process in order to further prove my claim in the Court of Law.

(C) I have been victimized and traumatized by the discriminatory action of the Appellees, IDPR and State officials.The intentionally discriminatory practices, conducts and method of investigative approach on the part of Appellees and State officials have caused serious damages on me as follows: (Appendix B-7, First Amended Complaint, pages 26-27)

(a) created fear and uncertainty among my patients; undermined my reputation and credibility; resulted in a loss of revenue by virtue of the loss of referrals from other physicians, the loss of existing patients and the loss of acquiring new patients.

(b) caused me mental anguish, stress, distress, losing my faith in my fellow human beings, pain and suffering in a variety of forms, i.e. bitterness, humiliation, insult, aggravation, frustration, nervous, anxiety, fear of abuse, fear of injustice, fear of uncertainty, and fear of unknown. The traumatized impact on me has virtually been enormous and endless.

(c) deprived me of mental and physical well being, peace, happiness, freedom and financial resource.

(d) violated my right to privacy.

(e) harm me by all means, including taking my medical license away from me.

I respectfully request the Seventh Circuit to grant me,an order to vacate an IDPR's order to suspend my Medical License, discovery process, fair jury trial, and monetary relief for damages to professional reputation and credibility, pain and sufferings, financial loss, a loss of my Illinois Medical License which is my proporty, legal and any related expenses for the amount no less than $1,000,000 (one million U.S. dollars).

Respectfully Submitted,

/s/ Yavarace Young,M.D
Yavarace Young, M.D.
Pro Se, Appellant

United States Court Of Appeals
For The Seventh Circuit
219 South Dearborn Street
Chicago, Illinois 60604
Docket Number : 96-1958

U.S.C.A.-7th Circuit
RECEIVED
CO OCT 25 1996
THOMAS F. STRUBBE
Clerk

Yavarace Young, M.D.
Appellant

V.

1. State of Illinois
2. Illinois Department of Professional Regulation
3. Illinois Medical Disciplinary Board
4. Nikki M. Zollar, Director of Illinois Department of Professional Regulation
5. William B. Shlifka, Chief of Medical Investigations
6. Robert J. Schafer, M.D. Medical Coordinator
7. Steven Wagy, Investigator
8. Dave Walker, Illinois State Police
Appellees

Racial and Gender Discrimination

Appeal for New Trial From Final Judgement
Of The United States District Court For
The Southern District of Illinois

Reply Brief of Appellant

Yavarace Young, M.D. Pro Se, Appellant
2801 Brown Street
Alton, Illinois 62002
618/463-0059

Yavarace Young, M.D., Pro Se is a Plaintiff-Appellant in this action, hereinafter referred to as "I" or "Appellant."

State of Illinois, et al. are all eight (8) named Defendants-Appellees in this action, hereinafter referred as "They" or "Appellees."

Illinois Department of Professional Regulation is one of the eight(8) named Defendants-Appellees in this action, hereinafter referred as "IDPR".

Illinois Medical Disciplinary Board is one of the eight(8) named Defendants-Appellees in this action.

State officials are unknown and un-named individuals, officers, employees, contractors, subcontractors, investigators, consultants, all other agencies, personel or anyone who work in conserted efforts with the eight(8) named Appellees in this action.

1. Jurisdictional Statement

Appellees' jurisdictional statement in their brief is incorrect and incomplete. My Jurisdictional Statement (Docketing Statement) that I have provided this court is complete and correct pursuant to Circuit Rule 28(b), and Federal Rule of Appellate Procedure FRAP 28(a) (2). I sent my Jurisdictional Statement to the Seventh Circuit and Appellees' attorney on April 25,1996, and again as part of in my brief, filed on May 29,1996. Circuit Rule 3 (c) (1) states "If the statement is not complete and correct, the appellee must provide a complete one to the court of appeals clerk within 14 days after the date of the filing of the appellant's docketing statement." Appellees have failed to timely filed their docketing statement, therefore, this court should disregard the Appellees' jurisdictional statement.

2. Statement of issues

This court should consider my statement of issues. Appellees' statement of issues is incorrect and incomplete. On April 25,1996, I submitted to this court and the Appellees' attorney my Jurisdictional statement (Docketing statement) which contains Statement of issues on pages 5-6. The Appellees did not timely file any objection to my statement of issues, therefore, this court should disregard Appellees' statement of issues in their brief.

3. Statement of Facts

As stated in my brief. Appellees' statement of facts in their brief is incorrect and incomplete.

4. Statement of case Same as in appellant's brief.

5. Standard of review

Same as stated in appellant's brief and section of argument of this reply brief.

6. Summary of Argument

I This court should review the district court' s denial of my motion for protective injunctive relief, and grant me the request in my motion to immediately vacate an order of IDPR to suspend my Illinois Medical License.

II This court should disregard Appellees' request in argument III, make correction of error in dismissal the complaint/claim, and grant me relief sought as stated in statement of issues of my brief.

7. Argument

I A. This court should review the district court' s denial of my motion for protective injunctive relief, and grant me the request in a motion with memorandum to this court to immediately vacate an order of IDPR to suspend my Illinois Medical License.

B. No one can deprived this court of the opportunity to conduct a meaningful review of the hearing. I have provided the district court the justification of my request for protective injunctive relief as follows: 1) My claim has merit to prevail, 2) I will suffer irreparable harm in an absence of injunctive relief, 3) The irreparable harm suffered in the absence of injunctive relief outweights the irreparable harm the Appellees will suffer if the injunction is granted, 4) the moving party has a reasonable likelihood of prevailing on the merits, and 5) the protective injunctive relief will not harm the public. Unfortunately, the district court denied protective injunctive relief with prejudice.

Appellees cited: *Duct-O-Wire Co. v. U.S. Crane, Inc.*, 31 F. 3d 506, 509(7th Cir.1994); *Storck USA L.P. v. Farley Candy Co.*, 14 F. 3d 311, 313-14 (7th Cir. 1994) to be used as standard of review, however, they took words out of the context by stating "The District Court has considerable discretion in determining whether to grant or deny a motion for a preliminary injunction." The matter of discretion is always problematic for many reasons. Firstly, there is no universally accepted as to what matters are assigned to the discretion of district court. Secondly, discretion is difficult to define, and there is no fine line to distinguish between discretion and discrimination. The United States Supreme Court has defined "discretion" as follows: "the absence of a hard and fast rule... when invoked as a guide to judicial action it means a sound discretion, that is to say a discretion exercised not arbitrarily or willfully, but with regard to what is right and equitable under the circumstances and the law and directed by the reason and conscience of judge to a just result."1

Thirdly, what sets of standard that justified the conclusion that the district court has abused its discretion. Finally, even in the absence of an abuse of its discretion, district court may commit a clear error of judgment that requires a correction of error by the Appellate Court.

The Eighth Circuit described the discretion of the court as follows:

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1 *Langenes v. Green*, 282 US 531, 541, 75 L. Ed 520, 51 S Ct 243 (1931)

> "When Court of Appeals says that a decision is discretionary, or that a district court has discretion to grant or deny a motion, it does not mean that district court may do whatever it pleases, rather, it means that court has a range of choices, and that its decision will not be disturbed as long as it stays within that range and is not influenced by any mistake of law. An abuse of discretion can occur in three principle ways: when a relevant factor that should have been given significant weight is not considered; when an irrelevant or improper factor is considered and given significant weight; and when all proper factors, and no improper ones, are considered, but the court, in weighing such factors, commits a clear error of judgment."2

A review as to whether the district court has abused its discretion is only a small part of a large scope of reviewing for "doing justice." Abuse of its discretion, clear error and its legal conclusions are subjects of review by impartial reviewers. It requires reviewers with integrity, wisdom, good insight, and judgment in order to achieve just decision. The most important thing is an outcome, the result of such judgment that occurs in real life, which is the best and the only genuine evidence which indicates the merit of such judgment. The impact of the district court error upon me as an aggrieved party is enormous and harmful. By virtue of failure of the District Court to grant me a protective injunctive relief and the continuation of intentionally discriminatory practices on the part of Appellees, IDPR and State officials to the extreme extent of suspension of my Illinois Medical License with false allegation, I have lost my Illinois Medical License even though I have not done any thing wrong. There is no justification for them to suspend my medical license. I have been in suffering from discrimination, and the worst is that they have deprived me of my property, my rights and my livelihood. It is a death of my professional life. My life has been in miserable. This has occurred in my real life. Appellees, IDPR and State officials cannot

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2 *Kern v. TXO Production Corp.*, 738 F 2d 968, 970 (1984, CA8 Ark).

make a good use of my Medical License. Certainly, they prefer to take my license away in order to harm me by all mean. Therefore, I am entitled to this court review of protective injunctive relief and grant me my motion seeking this court order to vacate IDPR's order of indefinitely suspension of my Medical License. It is the time for making correction of error when the error is reversible.

Hon. Joel M. Flaum, is one of three presiding judges of my case. He was also a presiding judge in case *Duct-O-Wire Co. v. U.S. Crane, Inc.*, 31 F. 3d 506, 509(7th Cir.1994). Therefore, it is unfair, prejudice to use his case precedent as standard for the reason that a man may not use himself as standard.

The Appellees' argument regarding an order of a transcript from the court reporter is incorrect and incomplete. I would like to cite Federal Rule of Appellate Procedure Rule 10 (b) (1) as follows:

> "Within 10 days after filing the notice of appeal or entry of an order disposing of the last timely motion outstanding of a type specified in Rule 4 (a) (4) , whichever is later, the appellant shall order from the reporter a transcript of such parts of the proceedings not already on file as the appellant deems necessary, subject to local rules of the courts of appeals. The order shall be in writing and within the same period a copy shall be filed with the clerk of the district court. If funding is to come from the United States under the Criminal Justice Act, the order shall so state. If no such parts of the proceedings are to be ordered, within the same period the appellant shall file a certificate to that effect."

I have filed "Transcript information sheet (order sheet)" with the clerk of the circuit court and Sally Naas, court reporter who completed part II and forwarded it to the Appellees.

Federal Rule of Appellate Procedure 10(b) (3) states

> "Unless the entire transcript is to be included, the appellant shall, within the 10-day time provided in paragraph (b) (1) of this Rule

> 10, file a statement of the issues the appellant intends to present on the appeal, and shall serve on the appellee a copy of the order or certificate and of the statement. An appellee who believes that a transcript of other parts of the proceedings is necessary shall, within 10 days after the service of the order or certificate and the statement of the appellant, file and serve on the appellant a designation of additional parts to be included. Unless within 10 days after service of the designation the appellant has ordered such parts, and has so notified the appellee, the appellee may within the following 10 days either order the parts or move in the district court for an order requiring the appellant to do so."

Federal Rule of Appellate Procedure 10(c) states

> "Statement of the Evidence or Proceedings When no report was made or When the Transcript is Unavailable. If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement shall be served on the appellee, who may serve objections or proposed amendments thereto within 10 days after service, Thereupon the statement and any objections or proposed amendments shall be submitted to the district court for settlement and approval and as settled and approved shall be included by the clerk of the district court in the record on appeal."

I have complied with Federal Rule of Appellate Procedure 10(b) (3), and 10 (c) by submitting to this court and Appellees'attorney my Jurisdictional statement (Docketing statement) which contains Statement of issues on pages 5-6, Statement of the evidence and proceedings of the hearing for protective injunctive relief on pages 6-8, my objection of their introduction of surprised exhibits and surprised witnesses at the hearing on page 7. I sent my Jurisdictional statement (Docketing statement) to this court, Appellees' attorney on April 25, 1996.

The Appellees have failed to timely respond or make objection to my Jurisdictional statement (Docketing statement), Statement of issues, my objection of their introduction of surprised exhibits and surprised witnesses at the hearing on page 7. Therefore, this court should disregard Jurisdictional Statement, and Statement of issues in their brief. Furthermore, the Appellees have a full knowledge that I did not order the transcript of hearing proceeding. They may order the transcript of hearing proceeding or move in the district court for an order requiring the appellant to do so if they deem necessary. They have failed to do both.

Federal Rule of Appellate Procedure 10(b) (2) states

> "If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant shall include in the record a transcript of all evidence to such finding or conclusion." Again, I have complied with this rule 10 (b) (2) by submitting my objection of their introduction of surprised exhibits and surprised witnesses at the hearing on page 7 of jurisdictional Statement (sent to court on April 25,1996) and again in my brief (filed with this court on May 29,1996) along with numerous documents of basic facts in the appendices that are contrary to surprised Exhibits of Appellees. Appellees have attempted to destroy these evidences by requesting this court to disregard my argument and documents of facts and evidences as stated in the page 24 of their brief.

There is no rule or law to indicate that the appeal for protective injunction is subject to dismiss if the appellant does not order the transcript of hearing. In addition, no one can deprive this court of the opportunity to conduct a meaningful review of the hearing.

Appellees cited three case precedents *Birchler v. Gehl Co.*, 88 F. 3d 518, 519 (7th Cir. 1996); *Fisher v. Krajewski*, 873 F. 2d 1057, 1061 (7th Cir. 1989); and *LaFollette v. Savage*, 63 F. 3d 540, 544 (7th Cir. 1995) as standard of review. These cases were different to my case in issues, facts, subject matter and went through jury trial. Whereas, there is lack of initial disclosure, pretrial procedure and jury trial in my case. Hon. Joel M. Flaum, presiding judge of my case was also presiding in *Birchler v. Gehl Co*., 88 F. 3d 518, 519 (7th Cir.1996). This is unfair and will be prejudice to my case.

I have adequately provided this court the information about hearing and proceeding which were prejudice on page 6-8 of Jurisdictional Statement, in my brief. My Argument III of this reply brief contains my objection to Appellees' request this court to disregard my explanation about hearing, proceeding with prejudice, supportive documents that were provided in my brief.

The hearing and proceeding in the district court on March 28,1996 were prejudice. Both notice of hearing and Court order of March 22,1996 contain no statement that allow Defendants-Appellees to show any paper or exhibits. I was stunned and shock to see that it was not a hearing for protective injunctive relief, but district court allowed Appellees to introduce surprised Exhibits and surprised witnesses to justify their wrongdoings. I have made objection but the court over ruled all. Actually it was a process of taking the Exhibits of fabrication to be formally baptized by the court.

The Appellees have introduced surprised Exhibits 1,2,3 that are the materials of fabrications/ manufacturing. This can be substantiated as follows:

1. These materials have never made available to me or to the district court either in the form of statement or document until the hearing date March 28,1996 despite my repeatedly requested for the reason and justification of their conducts of Random Investigation since February 16,1994. Since the filing date of this lawsuit with the district court on August 29,1995, Appellees did not deny my allegation complaints in my initial complaint and first amended complaint about using random investigation, investigation with no ground and investigation of potential violation etc. as the tools of Racial and Gender Discrimination against me. My allegation complaint is considered admitted when it is not denied by Defendants-Appellees. My letter dated February 16,1994, complaining about their conduct of Random investigation were sent

to Nikki M. Zollar, Director of IDPR; Mr. Roland W. Burris, former Illinois State Attorney General; and Governor Jim Edgar. This letter is a public record in the office of Governor and Attorney General. The correspondences from Nikki M. Zollar, William Shlifka, and Dr. Robert J. Schafer did not indicate the existent of these 3 Exhibits and failed to provide me with any reason or justification of their conducts of Random Investigation. This is not a national security issue that requires them to withhold information for the safety and security of our beloved country. These 3 exhibits are totally contradicted to the document of facts and evidences in public record and in the Appendix of my brief.

2. Mr. Igasaki s' notice of informal conference, IDPR's Notice of Preliminary hearing, IDPR's Notice of Indefinite suspension of my Illinois Medical License contain only one allegation that I did not send them the requested medical records. IDPR , State officials and Appellees have falsified the fact and made wrong allegation. I have a document to prove that the medical records were sent on March 22,1994 and the receipt date in their office was March 23,1994. This indicates that these 3 exhibits are materials of fabrication.

3. Apparently, they have produced these materials of fabrications to justify their wrongdoings in the first place. This of course has been my concern that I have raised in my letter of February 16,1994, and again with the district court since the filing date of the lawsuit. It has become reality on the hearing date when the district court allowed them to introduced these fabricated materials into the court room.

4. The content of these 3 Exhibits are also fabricated. Exhibit 1 is an undated letter which is a hearsay. It contains many lies. Its credibility is in question. It needs discovery process, a proof before it is allowed in the court room. Exhibit 2 contains information about payment of medical license renewal fee. It indicates that my license renewal fee has been paid. This does not mean that they have no knowledge of my identity as being a female, of oriental origin when they have an instant access to the complete physician profile of mine. Exhibit 3 is called "Provider Analysis." This paper indicates that this data was accumulated from the date initiated on 3/31/93 to completed date

on 5/26/93. This paper contains an analysis of my patients' office visits with procedure code 90020 and procedure code 90070. This paper indicates their genuine fabrication due to the fact that these procedure code 90020 and procedure code 90070 have no longer been used since January of 1992. It has been deleted from the CPT code system of Medicare, Medicaid and all type of insurances since January, 1992 (Appendix C-1, C-2).

5. There is no order or document of request from Medicare or Illinois Deparment of Public Aid (Medicaid) for them to conduct investigation of my practice. IDPR has no jurisdiction to perform investigation for Medicare or Medicaid. In addition, both Medicare and Illinois Medicaid have their own department and office of Inspector General with jurisdiction to conduct investigation. Medicare and Illinois Medicaid did not have any complaint or conducted investigation about me.

I respectfully request this court to disregard these 3 surprised Exhibits and any other testimonies or arguments in related to these materials of fabrication.

II A. The district court erred in dismissal the complaint for failure to state a claim for which relief can be granted.

The district court was correct in accepting my complaints as true all facts alleged. In the memorandum and order of the court dated December 6,1995, the court stated

> "In ruling on a motion to dismiss a complaint for failure to state a claim, the district court takes as true all facts alleged plus the reasonable inferences therefrom and determines whether--under those assumption-- the plaintiff would have a right to legal relief."

Apparently, the district court took my complaints as true all facts alleged but denied the existent of the claim for relief. The district court erred in using the wrong legal concept to the facts.

Complaint is subject to dismissal for failure to state claim upon which relief can be granted only if plaintiff can prove no set of facts consistent with complaint that would entitle plaintiff to relief. My complaint and/or lawsuit has merit to prevail. My original complaint, first amended complaint, motion for protective injunctive relief contain the allegations that can be substantiated by documents of basic facts. I have provided this court numerous documents of facts, and evidences to support my complaint in my brief, but the Appellees requested this court to disregard these documents of facts, evidences and arguments. (page 24 of Appellees' brief). Unfortunately, the district court did not allow me an opportunity to present these documents. The district court dismissed the first seven of the eight Defendants-Appellees, lawsuit for failure to state a claim for which relief can be granted, and Eleventh Amendment immunity on March 22, 1996, approximately six days before the hearing date for preliminary injunction on March 28,1996. Apparently, the court order of March 22,1996 was mailed to me on March 26,1996. The dismissal was premature and was with prejudice. There was a lack of initial disclosure, pretrial discovery process, and a fair trial before a panel of impartial juries.

The Appellees cited two case precedents for this court to be used as standard of review in making decision of my case. The Appellees cited *Whirlpool Fin. Corp. v. GN Holdings, Inc.,* 76 F. 3d 605,608 (7th Cir.1995) which was a case about securities litigation. The court dismissed this case for failure to meet the statute of limitation. Another case is *Northern Trust Co. v. Peters,* 69 F 3d 123, 129 (7th Cir. 1995). It was a lawsuit to recover on investor's promissory note, and investor counterclaimed for bank's alleged breach of contract, fraud, negligent misrepresentation, intentional infliction of emotional distress, deceptive trade practices, defamation and forgery. These two case precedents were totally different from my case in the subject matter, nature of the case, issues and circumstance, etc. It is inappropriate and unfair to utilize irrelevant case precedents in deciding my case. Hon. Michael S. Kanne was presiding judge in both *Whirlpool Fin. Corp. v. GN Holdings, Inc.,* 76 F. 3d 605,608 (7th Cir.1995), and *Northern Trust Co. v. Peters,* 69 F 3d 123, 129 (7th Cir. 1995). Hon. Michael S. Kanne is presiding judge of my case. It is unfair, and prejudice to use these case precedents as standard for deciding my case for a very simple reason that one may not use oneself as standard.

B.Eleventh Amendment cannot be used as a bar for a lawsuit when the Appellees violate my fundamental rights guaranteed by the Fourteenth Amendment of the United States Constitution.

The District Court erred in applying Eleventh Amendment as a bar for a lawsuit, using the wrong legal concept to the facts and finally made the wrong decision. This was stated very clearly in the argument pages 34-39 of my brief.

Every one must be mindful to the fact that there is no law or rule or constitution of any kind that provide immunity for the Appellees and State officials who violate the law especially the Fourteenth Amendment of the United States Constitution. Every one including the Appellees and State officials must stand equal before the law. They are above the law if they violate the constitutional law or violate the rights of other citizens. They do not have the privilege of immunity whatsoever. This is a Racial and Gender Discrimination lawsuit, a constitutional case that is under the protection of the Fourteenth Amendment of the United States Constitution. Therefore, the Fourteenth Amendment of the United States Constitution should be applied to this case.

The use of the Fourteenth Amendment of the United States Constitution as a basis of my claim was stated very clearly in Memorandum of law in support of plaintiff's motion to quash the defendants' motion, First Amended complaint, Memorandum to support plaintiff's motion for protective injunctive relief and Memorandum in support of plaintiff's motion to strike defendants' motion to dismiss. In the court decision and order dated March 22,1996, and April 1,1996, there was no showing that the District Court analyzed the provision of the Fourteenth Amendment of U. S. Constitution as the basis of my claim in making its decision. The District Court denied my rights to jury trial, a fair trial, due process and equal protection of law. There was a lack of discovery process and pretrial procedure. There can never be a fair trial since there was no fair pretrial and discovery process in the first place. Failure to enforce the Fourteenth Amendment of the Constitution has caused a lot of damages on me as a victim. Law must be used for a reasonably accurate solution to a given problem. Fourteenth Amendment of the Constitution must be applied to this particular case in order to protect me against the Appellees, IDPR and State officials who intentionally discriminate against me,violated my rights, and deprived me of my property and livelihood by suspension of my Illinois Medical license in discrimination and retaliation.

Appellees cited 4 case precedents of Seventh Circuit in which Eleventh Amendment was used as a bar for lawsuit under 42 USCA § 1983. Fourteenth Amendment is used as a basis of my claim in the lawsuit. How can a person have and enjoy equal rights of "life, liberty, property and the pursuit of happiness" without equal protection of laws? It is this provision of Fourteenth Amendment that is defended as a necessary protection of these fundamental rights. Eleventh Amendment cannot be used as a bar for the lawsuit, the claim under Fourteenth Amendment. Every one must be mindful to the fact that there is no rule or law or constitution of any kind that provide immunity for Appellees, State officials who violate the law especially Fourteenth Amendment of US Constitution. Again, these four case precedents: ***Ruehman v. Sheahan***, 34 F. 3d 525, 528 (7th Cir.1994); ***Baxter by Baxter v. Vigo County School Corp.***, 26 F.3d 728, 731 (7th Cir.1994); ***Mack v. O'Leary***, 80 F. 3d 1175, 1181 (7th Cir.1996); ***Nowicki v. Ullsvik***, 69 F. 3d 1320, 1324 (7th Cir.1995) were totally different from my case in the subject matter, nature of the case, issues and circumstance, etc. It is inappropriate and unfair to utilize those irrelevant case precedents in deciding my case. Hon. Joel M. Flaum was presiding judge in ***Ruehman v. Sheahan***, 34 F. 3d 525, 528 (7th Cir.1994). Hon. Richard A. Posner and Hon. Michael S. Kanne were presiding judges in ***Mack v. O'Leary***, 80 F. 3d 1175, 1181 (7th Cir.1996). According to Seventh Circuit order of June 5,1996 denial of my motion seeking a vacation of IDPR's order of suspension of my Illinois medical License, Hon. Joel M. Flaum, Hon. Richard A. Posner and Hon. Michael S. Kanne are presiding judges of my case. It is unfair, prejudice to use these case precedents as standard for deciding my case for a very simple reason that man may not use himself as standard. Furthermore, all eleven case precedents that Appellees used in their standard of review in argument I and II are from Seventh Circuit. This is a case of discrimination, a constitutional question, therefore, Supreme Court decision and decision of other Appellate Courts should be used as a guide for making just decision of this case.

III Seventh Circuit should consider Appellant's arguments in the brief concerning events that occurred after the District's April 2,1996 entry of judgement, all of appellant's brief and appendices to the brief in reviewing and determination of all the issues of this appeal.

The Appellees' argument on page 24 of their brief is unreasonable, unjust, unfair and outright prejudice to the merit of this appeal. It also indicates their attempt to cover up their wrong doings by not letting these documents of basic facts and evidences to appear before this court for reviewing and making just decision. Appellant's brief page 7 contains a part of jurisdictional statement and pages 10 to 11 contain the statement of issues regarding IDPR's order to indefinitely suspend my Illinois Medical License on April 17, 1996 which was one day after I filed notice of appeal. These statements and supportive documents were parts of my brief which were filed with this court on May 29,1996, and available for this court to review. The most important event that occurred after April 2,1996 was the accomplished action of racial and gender discrimination against me on the part of IDPR, State officials, and Appellees by taking an action to indefinitely suspend my Illinois Medical License in discrimination and retaliation on April 17,1996. Page 32 of my brief contains my argument regarding the Disproportionate Impact on me when IDPR, State officials and Appellees indefinitely suspended my Illinois Medical License with the wrong allegation that I did not send them the requested medical records for random investigation. I have provided this court the proof that the medical records were sent and document that medical records were received in IDPR office on March 23,1994, but again the Appellees requested this court to disregard this basic fact. Page 43 of my brief contains my requests to this court including to grant my motion for a court order to immediately vacate an oder of IDPR to suspend my Illinois Medical License; to grant me the discovery process and the new trial in the Seventh Circuit since there was a lack of initial disclosure, discovery process, fair pretrial procedure and trial before the panel of impartial juries in the District Court. I pray to this court to grant my requests as stated.

The Appellees' argument on page 24 of their brief state "Because these matters were not considered by the District Court, this Court should disregard them in reviewing the action taken by the District Court." The basic fact is that the event of suspension of my Illinois Medical License did not occur when this lawsuit was in the District Court, therefore it was impossible for the District Court to review this matter of perpetuating discriminatory practices against me to the extreme extent of indefinitely suspending my Illinois Medical License. However, this event revealed their persistent, continual discriminatory action against me until they accomplished their job of taking my medical License away. Furthermore, the possibility of the Defendants-Appellees' harmful acts against me was raised since the filing date of this lawsuit. I repeatedly requested the District Court for Protective Injunctive Relief since the day of filing the lawsuit on August 29,1995. By virtue of the failure of the District Court to grant me a protective injunctive relief and the continuation of intentionally discriminatory practices on the part of the Appellees, IDPR and State officials, I have lost my Illinois Medical Licence which is my property. IDPR, State officials and the Appellees have deprived me of my property, my rights and my livelihood. It is a death of my professional life. My life has been in miserable. It is unfair and unjust for me to lose my Medical License when I have not done anything wrong. This matter is one of the issues of appeal and of course falls into the jurisdiction and authority of this court. In addition, this issue was stated very clearly in my initial Jurisdictional Statement (Docketing Statement) filed with the Seventh Circuit on April 25,1996; Jurisdictional Statement and Statement of Issues which were part of Appellant's brief, filed with this court on May 29,1996.

IDPR, State officials and Appellees' intentionally discriminatory action against me by indefinitely suspended my Illinois Medical License occurred in real life. It is the basic fact that indicates their wrongdoings. The Appellees'brief on page 24, requested this court to disregard the information concerning the event of suspension of my Illinois Medical License.

The Appellees' argument also contains another request to this court to disregard the Appellant's documents at pages 1-17 of "Appendix A" and pages 64,76 and 82-83 of "Appendix B." Certainly, it is unreasonble, unfair and unjust to request this court to disregard the documents of facts, evidences when these materials are available and essentials to the reviewing and determination of the issues on appeal. It is basically an unheard practice.

Pages 1-17 of "Appendix A" contain the following documents of facts and are listed as follows:

Appendix A-1	Pages
my letter to Ms.Nikki M. Zollar, dated February 16,1994	1-2
Appendix A-2	
my letter to Mr. Roland W. Burris, dated February 16,1994	3-4
Appendix A-3	
my letter to Governor Jim Edgar, dated March 3,1994	5-7
Appendix A-4	
Ms. Nikki M. Zollar's letter, dated February 24,1994	8
Appendix A-5	
my letter to Ms. Nikki M. Zollar, dated March 1,1994	9
Appendix A-6	
my letter to Ms. Nikki M. Zollar, dated March 2,1994	10
Appendix A-7	
Mr. William B. Shlifka's letter, dated March 4,1994	11-12
Appendix A-8	
Dr. Robert J. Schafer's letter, dated March 10,1994	13
Appendix A-9	
My notification of sending medical records with proof, date sent via Express mail on March 22,1994	14- 15
Appendix A-10	

Mr. Roland W. Burris's letter, dated April 14,1994 16
Appendix A-11
Mr. Richard G. Agin's letter, legal counsel on behalf of Governor Jim Edgar, dated April 18,1994 17

These are documents of facts, a part of my complaint/claim which I have explained in my initial complaint, Memorandum in support of motion to quash, First Amended Complaint, Memorandum in support motion for protective injunctive relief and Memorandum in support motion to strike, dated March15,1996.

Appendices A-2, A-3, A-10, and A-11, are public record, available at Governor's office and the office of Illinois State Attorney General since 1994.

Appendices A-1, A-5, A-6, and A-9, have been made available to IDPR, State officials and Appellees since the date appearing on these letters.

Appendices A-4, A-7, A-8 were letters from IDPR, State officials and Appellees. They have an instant access to these materials as well as the information of their own behaviors and activities.

The use of any documents virtually depends on the nature of the documents. The materials in the appendices of the Appellant's brief are genuine documents of the facts, the truth, and are parts of the Appellant's brief. Therefore, these documents should be and must be subjects of review by this court. Furthermore, these documents are essentials for this court to make determination of the issues on appeal and "doing justice." The most important thing is that these documents are the supportive documents to statements of facts containing in my brief, and supportive to the statements that I have repeatedly explained in initial complaint, Memorandum in support of motion to quash, First Amended Complaint, Memorandum in support motion for protective injunctive relief and Memorandum in support motion to strike. These documents are parts of Appellant's brief and are subjects to be reviewed by this court.

In general, the materials that the Appellate Court uses for review, making determination and decision are consisted of 1) record on Appeal; 2) Appellant's brief; 3) Appellees' brief; 4) Appellant's reply brief; 5) motions with memorandum during the appeal; and 6) oral argument. According to Federal Rule of Appellate Procedure, Rule 10(a), the record on appeal consists of the original papers and exhibits filed in the district court, transcript of proceedings, if any, and a certified copy of the docket entries prepared by the clerk of the district court. The record on appeal is only a small portion of the 6 items of materials used for reviewing and determination by the Appellate Court. The Appellees' request this court to disregard the documents of facts, evidences and proof in the Appellant's brief is absolutely unreasonable, and out of reality.

Appellees also request this court to disregard pages 64, 76, and 82-83 of "Appendix B" of my brief for the same reason that these materials are not the record on appeal. These documents are listed as follows:

	Court Docket	Page
Appendix B-11		
Notice for Injunctive Hearing, dated March 21,1996	25	64
Appendix B-12		
Court Order dated March 22,1996	26	65-76
Appendix B-15		
Suspension of Medical License, April 22,1996		82-83

These documents are copies of genuine documents of facts, and are essentials for this court to establish sequence of events, and utmost important for reviewing and determination of the issues on appeal for "doing justice." These are also supportive documents to prejudice in hearing and proceeding which I stated in my brief.

Appendix B-11 is the district court's notice for Preliminary Injunctive Hearing, dated March 21,1996 (court docket number 25), page 64 of "Appendix B" of my brief. This document was created by the district court, therefore it is a part of the record on appeal.

This district court's notice of hearing stated the type, date, time of hearing, Honorable Judge Paul E. Riley as presiding judge and location of hearing. There was no instruction as to the permission of oral argument, or introduction of witnesses or exhibits or any other papers whatsoever.

Page 76 of Appendix B-12 in Appellant's brief is a copy of the US District Court envelope containing District Court Order dated March 22,1996 (Docket number 26) which was mailed to me on March 26,1996 as indicated by the postmark date on the envelope.

On March 21, 1996, the Deputy Clerk of the District Court phoned me to inform me that a hearing for injunction was scheduled to be held on March 28, 1996 at 10:15 am, and the hearing should last for one hour. Approximately 11:30 am on March 27, 1996, I received the District Court order dated March 22, 1996 to dismiss defendants number 1 to 7 and stated "Plaintiff should be prepared to present evidence and argument as to why she is entitled to the grant of a preliminary injunction against the state official Defendants."

According to local rule of motion practice of this District Court, there will be no oral arguments on motions in civil cases except by specific order of the judge to whom the motion is assigned. Apparently, the District Court order dated March 22, 1996 was mailed on March 26, 1996 as the postmark date appeared on the envelope. I did not have sufficient time to prepare for oral argument with this less than twenty four (24) hours of notice and my understanding was that my motion for protective injunctive relief was of no contest due to the fact that the Defendants-Appellees did not make any motion, reply brief or any statement of objection to my motion after the filing of my motion for protective injunctive relief since February 20, 1996. According to notice for Preliminary Injunctive Hearing and the District Court order dated March 22,1996, there was no court order or statement of any kind that allowed the Defendants-Appellees to introduce documents, exhibits, materials or witnesses to the court. Regretfully, the hearing and the proceeding on March 28, 1996 were prejudice. The District Court allowed the Defendants-Appellees to introduce surprised exhibitions and three surprised witnesses to testify.

Pages 82-83 contain Appendix B-15, Suspension of Medical License, April 22,1996. This is IDPR's notice of indefinite suspension of my Illinois Medical License. It is a genuine document of fact, created by IDPR, State officials and Appellees which indicates that they have finally accomplished their discriminatory action against me by indefinitely suspending my Illinois Medical License, and destroy my livelihood. It is a consequence of failure of the District court to provide me with the protection when the protective injunctive relief was not granted.

IV Appellees' statement of facts in their brief is incorrect and incomplete. This court should disregard Appellee' statement of facts. They included surprised Exhibit 1,2 3 which are the materials of fabrication. It requires discovery process, proof before allowed in the court room. Statement of facts in my brief is correct and is supported by documents of basic facts and evidences.

V. Objection to Appellees' standard of review.

Appellees have failed to send me copies of eleven case precedents. I received a package containing two copies of Appellees' brief bound with appendix.

According to Seventh Circuit order of June 5,1996 denial of my motion seeking a vacation of IDPR's order of suspension of my Illinois medical License, Hon. Joel M. Flaum, Hon. Richard A. Posner and Hon. Michael S. Kanne are presiding judges of my case. Hon. Joel M. Flaum was a presiding judge in case ***Duct-O-Wire Co. v. U.S. Crane, Inc.***, 31 F. 3d 506, 509(7th Cir.1994); ***Birchler v. Gehl Co.***, 88 F. 3d 518, 519 (7th Cir. 1996); and ***Ruehman v. Sheahan***, 34 F. 3d 525, 528 (7th Cir.1994).

Hon. Michael S. Kanne was presiding judge in both ***Whirlpool Fin. Corp. v. GN Holdings, Inc.***, 76 F. 3d 605,608 (7th Cir.1995), and ***Northern Trust Co. v. Peters***, 69 F 3d 123, 129 (7th Cir. 1995)
Hon. Richard A. Posner and Hon. Michael S. Kanne were presiding judges in ***Mack v. O'Leary***, 80 F. 3d 1175, 1181 (7th Cir.1996).

It is not fair, and prejudice to use these case precedents as standard for deciding my case for a very simple reason that a man may not use himself as standard. All eleven case precedents were totally different from my case in facts, subject matter, nature of the case, issues and circumstance, etc. The general justification of utilizing the case precedents is that treating the like cases alike; use only the past decisions that were just and fair; and use as a guide not as a rule governed activity. It is unfair, prejudice to utilize irrelevant case precedents in deciding my case. Furthermore, all eleven case precedents are from Seventh Circuit. My claim is a case of discrimination, a constitutional question, therefore, decision of Supreme Court or other Appellate Courts should be used as a guide for making just decision of this case.

8. Conclusion I pray this court to provide "Justice for all."

Respectfully Submitted

/s/ Yavarace Young,M.D
Yavarace Young,M.D
Pro Se, Appellant

STATE OF ILLINOIS
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois, Complainant
V. No. 93-4429-LEG
YAVARACE YOUNG
License No. 036-053991,Respondent U.S.C.A.-7th Circuit

RECEIVED
CO MAY-7 1996
THOMAS F. STRUBBE
Clerk

NOTICE OF INFORMAL CONFERENCE

TO: YAVARACE YOUNG
2801 Brown Street
Alton, Illinois 62002

PLEASE TAKE NOTICE that an Informal Conference in the above matter will be held on Wednesday, August 30, 1995, at 10:00 a.m., at the Department of Professional Regulation, 320 West Washington, 3rd Floor, Springfield, Illinois 62786 where you may offer information and speak in your own behalf about the allegations currently under investigation, as set forth below.

Please bring to the conference any and all documents relevant to this matter which you have in your possession. Kindly cooperate by your prompt attendance. Failure to attend will be considered in any decision concerning a possible Complaint which may be brought by this Department on the matter in question.You may have an attorney present if you wish.

BRIEF STATEMENT OF ALLEGED VIOLATIONS:

On or about February 25, 1994, Respondent refused to furnish medical records lawfully requested by investigators of the Illinois Department of Professional Regulation.

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois
BY: /s/ David K.Igasaki
David K. Igasaki
Attorney for the Department

David K. Igasaki
Attorney for the Department
of Professional Regulation
of the State of Illinois
100 West Randolph Street
Suite 9-300
Chicago, Illinois 60601
312/814-2737
DKI: lj

STATE OF ILLINOIS
SS:
COUNTY OF COOK

The undersigned, being duly sworn on oath, states that on the date hereafter set out, I mailed a copy of the foregoing NOTICE OF INFORMAL CONFERENCE, by depositing them in the United States mailbox located at 100 West Randolph Street, Suite 9-300, Chicago, Illinois 60601, the NOTICE OF INFORMAL CONFERENCE also being mailed and by certified mail at 100 West Randolph, Chicago, Illinois 60601, to all parties at the addresses listed above.

/s/ Illegible Signature
AFFIANT

Subscribed and sworn to before me this
4 th day of August 1995

/s/ Temple Hall-McKinnis
Temple Hall-McKinnis
Notary Public

"OFFICIAL SEAL"
Temple Hall-McKinnis
Notary Public, State of Illinois
My Commission Expires 03/16/98

YAVARACE YOUNG, M.D.
Family Physician
2801 Brown Street
Alton, Illinois 62002
Telephone (618) 463-0059

August 28, 1995

Mr. David K. Igasaki, attorney
Illinois Department of Professional Regulation
100 West Randolph, Suite 9 - 300.
Chicago, Il 60601

U.S.C.A.-7th Circuit
RECEIVED
CO MAY-7 1996
THOMAS F. STRUBBE
Clerk

References:

A) Dr. Yavarace Young's letter dated February 16, 1994 addressed to Illinois Department of Professional Regulation.

B) Dr. Yavarace Young's letter dated March 1,1994 addressed to Nikki M. Zollar, Director of Illinois Department of Professional Regulation.

C) Dr. Yavarace Young's letter dated March 21, 1994 addressed to Dr. Robert J. Schafer, Medical Coordinator of Illinois Department of Professional Regulation in Springfield, Illinois with enclosure of the requested medical records.

D) Notice of Informal Conference dated August 4,1995 from Mr. David K. Igasaki, Attorney for Illinois Department of Professional Regulation.

Dear Sir:

This will acknowledge the receipt of your notice for informal conference (reference: D) which you scheduled to be held on August 30,1995 at the Department of Professional Regulation in Springfield, Illinois.

Please be advised that I have attempted to be cooperative in responding to Illinois Department of Professional Regulation. However, as of this date I have not been provided with any of the information I requested in references A,B and the specific cause which led to initiation of investigation has not been given. Your cooperation in responding to my requests in references A,B is most appreciated.

I would like to inform you that the allegation complaint by Illinois Department of Professional Regulation in your notice of informal conference(reference: D) is incorrect. As a matter of clarification, the medical records were requested on March 10,1994 and I subsequently sent them on March 22,1994 via US Express Mail (reference: C).

I hope my explanation is adequate and this will serve as a substitute for the informal conference in Springfield, Illinois. It is a waste of time for both parties and I have more important professional business to tend to.

Sincerely Yours,

/s/ Yavarace Young, M.D.
Yavarace Young, M.D.
Express Mail Number: EG381321377US
Certified Mail No. Z 144 404 263

STATE OF ILLINOIS
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois, Complainant
V. No. 93-4429-LEG
YAVARACE YOUNG
License No. 036-053991,Respondent

U.S.C.A.-7th Circuit
RECEIVED
CO MAY-7 1996
THOMAS F. STRUBBE
Clerk

NOTICE OF PRELIMINARY HEARING

TO: YAVARACE YOUNG
2801 Brown Street
Alton, Illinois 62002

PLEASE TAKE NOTICE that on Monday, December 11, 1995, at 9:30 a.m., you are directed to appear before the Medical Disciplinary Board of the Department of Professional Regulation of the State of Illinois located at 100 West Randolph Street, Suite 9-300, Chicago, Illinois 60601, at which time a hearing date will be set. You are requested to then and there present any and all routine motions you may wish to have heard regarding the charges contained in the attached Complaint. Any motions presented on the above date should be served on the Adjudicative Services Unit of the Department of Professional Regulation, at 100 West Randolph Street, Suite 9-300, Chicago, Illinois 60601, at least three (3) business days in advance of the scheduled meeting.

Your appearance on the scheduled date is mandatory and failure to so appear may result in the selection of a hearing date in your absence, unless a continuance has been secured in advance of the meeting.Your appearance may be made personally or through counsel. It is required that you file an ANSWER to the attached

Complaint with the Department of Professional Regulation by the date of the Preliminary Hearing.

Rules of practice in Administrative Hearings in the Department of Professional Regulation and before Committees or Boards of said Department are available upon request.

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois

BY: /s/ David K.Igasaki
David K. Igasaki
Attorney for the Department

David K. Igasaki
Attorney for the Department of Professional Regulation
of the State of Illinois,
100 West Randolph Street, Suite 9-300
Chicago, Illinois 60601,
312/814-2737
DKI: lj

STATE OF ILLINOIS
SS:
COUNTY OF COOK

The undersigned, being duly sworn on oath, states that on the date hereafter set out, I mailed copies of the foregoing NOTICE and COMPLAINT, by depositing them in the United States mailbox located at 100 West Randolph Street, Suite 9-300, Chicago, Illinois 60601, and by mailing them by certified mail at 100 West Randolph Street, Chicago, Illinois 60601, to all parties at the addresses listed above.

/s/ Illegible Signature
AFFIANT

Subscribed and sworn to before me this
3 rd day of November 1995

/s/ C. Elizabeth Puente
C. Elizabeth Puente
Notary Public

"OFFICIAL SEAL"
C. Elizabeth Puente
Notary Public, State of Illinois
My Commission Expires 06/13/99

STATE OF ILLINOIS
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois, Complainant
V. No. 93-4429-LEG
YAVARACE YOUNG
License No. 036-053991,Respondent

COMPLAINT

Now comes the DEPARTMENT OF PROFESSIONAL REGULATION of the State of Illinois, by its Chief of Medical Prosecutions, Michael V. Favia, and as its COMPLAINT against Yavarace Young, Respondent, complains as follows:

1 Yavarace Young is presently the holder of a Certificate of Registration as a Physician and Surgeon in the State of Illinois, License No. 036-053991, issued by the Department of Professional Regulation of the State of Illinois. Said license is presently in active status.

2. On or about February 15, 1994, Steven Wagy, and investigator for the Illinois Department of Professional Regulation, together with an Illinois State Police Officer, visited the office of Yavarace Young, presented releases from various patients, and requested to see the patient medical records.

3 The person at Respondent's office instructed them to return at a later date for the records

4. On or about February 25, 1994, said Steven wagy and said State Police investigator returned to Respondent's office and requested the records.

5 On said date, the person in charge of said office represented himself to be Respondent's husband and informed the said investigators that the request for information was refused and that, they would have to leave the office.

6. On or about March 10, 1994, Deputy Medical Coordinator, Robert Schafer, M.D., sent a written request for the patient medical records in question, signed by himself.

7. Respondent failed to provide the requested information.

8. The foregoing acts and/or omissions are grounds for revocation or suspension of a Certificate of Registration pursuant to Illinois Compiled Statutes (1992),' Chapter 225, paragraphs 60/22A(38)

WHEREFORE, based on the foregoing allegations, the DEPARTMENT OF PROFESSIONAL REGULATION of the State of Illinois, by Michael V. Favia, its Chief of Medical Prosecutions, prays that the Physician and Surgeon license of Yavarace Young be suspended, revoked, or otherwise disciplined.

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois

BY: /s/ Michael V. Favia
Michael V. Favia
Chief of Medical Prosecution

David K. Igasaki
Attorney for the Department
of Professional Regulation
of the State of Illinois
100 West Randolph Street
Suite 9-300
Chicago, Illinois 60601
312/814-2737
MVF: DKI: lj

YAVARACE YOUNG, M.D.
Family Physician
2801 Brown Street
Alton, Illinois 62002
Telephone (618) 463-0059

U.S.C.A.-7th Circuit
RECEIVED
CO MAY-7 1996
THOMAS F. STRUBBE
Clerk

December 6,1995

Mr. Stuart J. O' Hare
Clerk of the court
Southern District of Illinois, United States District Court
P.O.Box 249
East St. Louis, Illinois 62202

Re: Case number 95-655-PER

Dear Sir :

Enclosed, please find my letter to Mr. Gregory T. Riddle, Assistant State Attorney General, attorney for defendants State of Illinois, et al and certificate of service for filing in the above captioned matter.

Thank you.

Sincerely yours,

/s/ Yavarace Young,M.D.
Yavarace Young,M.D.

Certified Number : Z 201-317-221

YAVARACE YOUNG, M.D.
Family Physician
2801 Brown Street
Alton, Illinois 62002
Telephone (618) 463-0059

December 6,1995

Mr.Gregory T. Riddle
Assistant State Attorney General
500 South Second Street
Springfield, Illinois 62706

Re: Case number 95-655-PER

Dear Mr. Gregory T. Riddle :

This will acknowledge the receipt of "Notice of Preliminary Hearing" requested by Mr. David K. Igasaki , attorney of Illinois Department of Professional Regulation (I.D.P.R).

Please be advised that I previously notified I.D.P.R. that the requested medical record was provided. This issue was discussed in my correspondence dated August 28,1995, which was sent to Mr. David K. Igasaki, in my initial complaint of the lawsuit 95-655-PER and again in my memorandum. The medical record issue is apparently "smoke and mirrors" attempt on the part of I.D.P.R. toward the real issue of intentional discrimination. I.D.P.R., Medical Disciplinary Board, and State of Illinois are the defendants in the lawsuit 95-655-PER..The recent action on the part of I.D.P.R. represents a fragrant disregard for the due process and trial procedure of the Federal Court. It is an apparent attempt to circumvent the court action that is presently pending. In as much as all the issues discussed in I.D.P.R.' s recent notice of preliminary hearing were addressed in my initial complaint of the lawsuit and in the memorandum ; it can only be determined that I.D.P.R. and State officials have not changed their discriminatory intent and perpetuate intentional practices in order to harm me by all means. This is substantiated by the fact that I have not been provided with any formal charges. In addition , to threaten of one' s medical license based on the request of medical records for 'Random Investigation' can only be described as vindictive, bias, abuse of power and once again served to confirm my claim of intentional discriminatory practices on the part of I.D.P.R. and State officials.

Please advise I.D.P.R. and States officials who are your clients that there is a lawsuit pending ; therefore all communications between plaintiff and the defendants should be through the Federal Court only. This will allow legal process to proceed in an acquitable manner and it will protect the overall integrity of the evidences submitted and to ensure that the Federal Court process could proceed without being impaired by the action of I.D.P.R. and State officials.

I would appreciate very much that you advise I.D.P.R. and State officials not to pursue any action against me during the court process.

Sincerely yours,

/s/ Yavarace Young, M.D.
Yavarace Young, M.D.
Certified Number : Z 201-317-222

SEAL
OFFICE OF THE ATTORNEY GENERAL
STATE OF Illinois

December 8, 1995

Jim Ryan
ATTORNEY GENERAL

Dr. Yavarace Young, M.D.
2801 Brown Street
Alton, Illinois 62002

Re: *Young v. State of Illinois*, No. 9 5 -6 5 5 -PER

Dear Dr. Young:

I am in receipt of your correspondence dated December 6. On the same day I received your letter, I received the Court's Order granting the defendants'Motion to Dismiss.

Perhaps you are confused as to my representation of the Department of Professional Regulation. As an Assistant Attorney General, I represent the Department only in relation to the lawsuit which you filed and which was dismissed by the Court. I do not represent the Department in its every day functions and have no authority, whatsoever, to order the Department not to proceed with a preliminary hearing. Only a Court of competent jurisdiction would be able to order the Department not to proceed with any internal preliminary hearing. Until a Court does that, the Department is free to conduct any type of investigation or hearing it wants.

I have forwarded a copy of your December 6 correspondence to the Department of Professional Regulation. In the meantime, if you have any specific questions about your lawsuit which has been dismissed, please feel free to contact me. If you have any questions in regards to the Department's investigation or hearing, you should contact the Department directly.

Very truely yours,

/s/ Gregory T. Riddle
Gregory T. Riddle
Assistant Attorney General

GTR:sjc

500 South Second Street, Springfield, Illinois 62706 (217) 782-1090
TTY: (217) 785-2771 , FAX: (217) 782-7046
100 West Randolph Street, Chicago, Illinois 60601 (312) 814-3000
TTY: (312) 814-3374 , FAX: (312) 814-3806
1001 East Main, Carbondale, Illinois 62901 (618) 457-3505
TTY: (618) 457-4421 , FAX: (618) 457-5509

STATE OF ILLINOIS
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois, Complainant
V. No. 93-4429-LEG
YAVARACE YOUNG
License No. 036-053991,Respondent

Illinois Department of
Professional Regulartion
Order enter 12-11-95
initial ys

ORDER TO ANSWER OR BE HELD IN DEFAULT

This cause coming on to be heard on the status call, due notice having been given in accordance with Section 1110.70 of the "Rules of Practice in Administrative Hearings" (68 Illinois Administrative Code, Chapter VII, Section 1110.70, Subchapter a), the Department having been present by its attorney *David K. Igasaki,* and the Respondent having failed to file his/ her Appearance and Answer and having failed to appear at the hearing,

IT IS HEREBY ORDERED:

THE ILLINOIS COMPILED STATUTES PROVIDE THAT YOU MUST FILE AN ANSWER OR OTHERWISE PLEAD TO THE DEPARTMENT'S COMPLAINT ON OR BEFORE *January 10,1996* (date for Answer).

THIS MATTER IS SET FOR A STATUS HEARING ON *January 29,1996* at *9.30* a.m./p.m. at the Department office in Chicago, located at 100 Randolph Street, Room-9-172, Chicago, Illinois 60601.

FAILURE TO ATTEND SHALL RESULT IN THE TRANSFERRING OF THE MATTER TO THE BOARD ON THE PLEADINGS AND THE ENTRY OF A FINDING IN FAVOR OF

THE DEPARTMENT ON ALL ALLEGATIONS. THE ANSWER AND ALL OTHER PLEADINGS SHOULD BE FILED WITH THE DEPARTMENT'S ADJUDICATIVE SERVICES UNIT, 1OO WEST RANDOLPH, SUITE 9-300, CHICAGO, ILLINOIS 60501.

CERTIFIED____X___REGULAR___X____

MAIL TO: *Yavarace Young, M.D*. DATED: ____________

ADDRESS: *2801 Brown Street*
Alton, Illinois 62002

/s/ Shari Dam, signed
by
someone with initial
Shari Dam
Administrative Law Judge

Dept. ATTY.: *David K. Igasaki*

STATE OF ILLINOIS
SS:
COUNTY OF COOK

The undersigned, being duly sworn on oath, states that on the date hereafter set out, I mailed copies of the foregoing ORDER, by depositing it in the United States mailbox at 100 West Randolph, Chicago, Illinois 60601, and by sending it by certified mail at 100 West Randolph Street, Chicago, Illinois 60601, to all parties at the addresses listed.

/s/ Illegible Signature
AFFIANT

Subscribed and sworn to before me this
12 th day of December 1995

/s/ Edgelle L. Pettigrew
Edgelle L. Pettigrew
Notary Public

"OFFICIAL SEAL"
Edgelle L. Pettigrew
Notary Public, State of Illinois
My Commission Expires 06/19/99

YAVARACE YOUNG, M.D.
Family Physician
2801 Brown Street
Alton, Illinois 62002
Telephone (618) 463-0059

U.S.C.A.-7th Circuit
RECEIVED
CO MAY-7 1996
THOMAS F. STRUBBE
Clerk

January 8,1996

Honorable Shari Dam, Administrative Law Judge
State of Illinois Department of Professional Regulation
State of Illinois Center
100 West Randolph, Suite 9-300
Chicago , Illinois 60601

Dear Honorable Shari Dam :

This correspondence is written in response to your "order to answer or be held in default" dated December 11,1995 and it will serve as my preliminary answer to your order.

First of all, I would like to assure you that it is my desire to cooperate with you to the best of my ability. In the "Notice of Preliminary Hearing" dated November 3,1995, it was stated "Rules of Practice in Administrative Hearings in the Department of Professional Regulation and before Committee or Boards of said Department are available upon request." I would appreciate very much if you could arrange for a copy of the "Rules of Practice in Administrative Hearings" to be sent to me at your earliest convenience. I apologize for the delay in requesting this information.

As you are aware, I have filed a racial and gender discrimination complaint against State of Illinois, Illinois Department of Professional Regulation (IDPR) and State officials with U.S. District court, Southern division in East St.Louis,Illinois on August 29,1995 (Cause number CV 95-655-PER). The request for a hearing on the part of IDPR is a conflict of legal proceeding, jurisdiction of the U.S. Federal Court and demonstrates that IDPR and State officials have attempted to circumvent the power and the authority of the Federal Court while the discrimination lawsuit is still pending. The allegation complaint on the part of IDPR in "Notice of Preliminary Hearing" contains many elements of fabrication. The truth can be found in my original complaint of the lawsuit and in the memorandum which were filed with the Federal Court. I respectfully request that you postpone the "Status of Hearing" to be held at a later date until such time that the final court decision is made by the federal court and I have the opportunity to review "The Rule of Administrative Hearing."

Your kind consideration in this matter is greatly appreciated and please respond at your earliest convenience.

Sincerely yours,

/s/ Yavarace Young,M.D.
Yavarace Young,M.D.
Certified Number: P-385-215-606
P 385 215 606
US Postal Service
RECEIPT FOR CERTIFIED MAIL
No Insurance Coverage Provided
Do not use for International Mail (See reverse)
Sent to **HONORABLE SHARI DAM**
ADMINISTRATIVE LAW JUDGE
Street & Number
100 West Randolph, Suite 9-300
Chicago, Illinois 60601

Postage	$	32
Certified Fee		110

Special Delivery Fee	______
Restricted Delivery Fee	______
Return Receipt Showing to Whom & Date Delivered	110
Return Receipt Showing to Whom Date,& Addressee's Address	______
TOTAL Postage & Fee	$ 2.52

Postmark or Date

Postmark Seal USPS ALTON,IL 62002 ALTON SQ. SOF

JAN-8-1996

PS FORM 3800, April 1995

SENDER:

-complete item 1 and/or 2 for additional services.
-complete item 3, and 4a & 4b.
-print your name and address on the reverse of this form so that we can return the card to you.
-attach this form to the front of the mailpiece, or on the back if space does not permit.
-write "Return Receipt Requested" on the mailpiece below the article number.
-The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):
1. []Addressee's Address
2. []Restricted Delivery
Consult postmaster for fee.

3. Article addressed to:

Honorable Shari Dam
Administrative Law Judge,
IDPR, State of Illinois Center
100 West Randolph, Suite 9-300

Chicago, Illinois 60601

4a Article Number
P 385-215-606

4b.Service Type
[ ]Registered [X]Certified
[ ]Express Mail [ ]Insured
[ ]Return Receipt for Merchandise [ ]COD

7. Date of Delivery
1-17-96

5. Received By:(Print Name)

____

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Addressee or Agent)
/s/ illegible signature
PS Form 3811, December 1994 DOMESTIC RETURN RECEIPT

STATE OF ILLINOIS
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois, Complainant
V. No. 93-4429-LEG
YAVARACE YOUNG
License *No. 036-053991*,Respondent

Illinois Department of
Professional Regulartion
Order enter 1/29/96
initial ys

U.S.C.A.-7th Circuit
RECEIVED
CO MAY-7 1996
THOMAS F. STRUBBE
Clerk

ORDER OF DEFAULT FOR FAILURE TO APPEAR OR ANSWER AND TO TRANSFER THE MATTER TO THE BOARD ONTHE PLEADINGS

This cause coming on to be heard on the status call, due notice having been given in accordance with Sections 1110.70 and 1110.120 of the "Rules of Practice in Administrative Hearings"(68 Illinois Administrative Code, Chapter VII, Section 1110, Subchapter a),the Department having been present by its attorney *David Igasaki*, the Respondent having previously been ordered to appear and f ile an Answer and having failed to do so,

IT IS HEREBY ORDERED that *Yavarace Young* is/are held in default for failure to file Appearance, Answer, and appear at the hearing.

IT IS FURTHER ORDERED that this matter be transferred to the *Medical Disciplinary Board* (Name of Board) for its deliberations of the pleadings.

IT IS FURTHER ORDERED that this matter be continued for status to *April 1, 1996* (date) at *1.00 pm* (time) , at the Department office in Chicago, located at 100 West Randolph Street, Room 9-172, Chicago, Illinois 60601, for the purpose of determining whether a final order has been entered by the Director.

CERTIFIED *X* REGULAR *X*

MAIL TO: Yavarace Young, M.D. DATED: ______________

ADDRESS: *2801 Brown Street*
Alton, Illinois 62002

unsign
Shari Dam/ Adrienne Hersh
Administrative Law Judge

Dept. ATTY.: David K. Igasaki

STATE OF ILLINOIS
SS:
COUNTY OF COOK

The undersigned, being duly sworn on oath, states that on the date hereafter set out, I mailed copies of the foregoing ORDER, by depositing it in the United States mailbox at 100 West Randolph, Chicago, Illinois 60601, and by sending it by certified mail at 100 West Randolph Street, Chicago, Illinois 60601, to all parties at the addresses listed.

/s/ Illegible Signature
AFFIANT

Subscribed and sworn to before me this
31st day of January 1996

	"OFFICIAL SEAL"
/s/ Edgelle L. Pettigrew	Edgelle L. Pettigrew
Edgelle L. Pettigrew	Notary Public, State of Illinois
Notary Public	My Commission Expires 06/19/99

STATE OF ILLINOIS
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois, Complainant
V. No. 93-4429-LEG
YAVARACE YOUNG
License No. 036-053991,Respondent

U.S.C.A.-7th Circuit
RECEIVED
CO MAY-7 1996
THOMAS F. STRUBBE
Clerk

NOTICE OF FILING

TO: YAVARACE YOUNG
2801 Brown Street
Alton, Illinois 62002

PLEASE TAKE NOTICE that, on Friday, February 2, 1996, I filed with the Hearing Officer the Department's Motion to Strike Purported Answer, a copy of which is attached, and will ask to schedule the Motion for Hearing at a time and date that you will be notified of and at which time you will have a right to appear to be heard.

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois

BY: /s/ David K.Igasaki
David K. Igasaki
Attorney for the Department

David K. Igasaki
Attorney for the Department of Professional Regulation
of the State of Illinois,
100 West Randolph Street, Suite 9-300
Chicago, Illinois 60601,
312/814-2737

STATE OF ILLINOIS
SS:
COUNTY OF COOK

The undersigned, being duly sworn on oath, states that on the date hereafter set out, I mailed copies of the foregoing NOTICE and MOTION, by depositing them in the United States mailbox located at 100 West Randolph, Suite 9-300, Chicago, Illinois 60601, and by mailing them by certified mail at 100 West Randolph Street, Chicago, Illinois 60601, to all parties at the addresses listed above.

/s/ Illegible Signature
AFFIANT

Subscribed and sworn to before me this
5th day of February 1996

"OFFICIAL SEAL"
Edgelle L. Pettigrew
Notary Public, State of Illinois
My Commission Expires 06/19/99

/s/ Edgelle L. Pettigrew
Edgelle L. Pettigrew
Notary Public

STATE OF ILLINOIS
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois, Complainant
V. No. 93-4429-LEG
YAVARACE YOUNG
License No. 036-053991,Respondent

MOTION TO STRIKE PURPORTED ANSWER

Now comes the **DEPARTMENT OF PROFESSIONAL REGULATION** of the State of Illinois, by its attorney, David K. Igasaki, and moves to strike the letter and purported Answer filed by Respondent, Yavarace Young, and, in support of this motion, states as follows:

1.On December 11, 1995, the Hearing Officer ordered Respondent Yavarace Young, M.D. to Answer the Complaint in this case on or before January 10, 1996.

2. On January 29,1996, having received no Answer, Appearance, or request for extension of time, the Hearing Officer found Respondent in default and referred the case to the Medical Disciplinary Board for a decision on the pleadings.

3. Respondent failed to appear at either hearing.

4. On February 1, 1996, a letter was received in Adjudicative Services from Respondent, dated January 8, 1996 requesting an indefinite postponement of all status hearings in this case until resolution of a Federal Court suit against the Department.

5. Although Respondent asked the United States District Court in that suit, Young vs. Illinois Department of Professional Regulation, No. 95-CV-0655-PER (S.D. Ill.) to enjoin this proceeding, no such injunction has entered or been granted. Indeed, on December 6, 1995, the Court dismissed Respondent's case. A copy of the court order is attached as Exhibit A to this motion.

6. Counsel for the Department is attempting to determine if Respondent has repleaded her Complaint in the Federal Court case. In any event, no injunction has issued against administrative proceedings by the Department.

7. No defense has been pleaded in Respondent's letter. Although Respondent claims that some portions of the Complaint are incorrect, she does not identify, in any way, the portions of the Complaint that

she denies. The letter is also not in the f orm of an Answer. The Department is not given any information as to Respondent's position on this case by the letter.

8. In any event, an indefinite (and presumably lengthy) continuance is not appropriate, at least unless and until the Federal Court enters an injunction.

WHEREFORE, the Department of Professional Regulation prays that the Hearing Officer:

A. Strike the Respondent's letter/purported Answer and let the default order of January 29, 1996 stand, with the case referred to the Medical Disciplinary Board on the pleadings;

B. In the alternative, strike the Respondent's letter/purported Answer and order the Respondent to prepare and file an Answer by a date certain, with a copy to be served on the Department's attorney, such Answer to specifically admit or deny each paragraph in the Complaint in this case and with an Order of Default to enter if Respondent fails to do so; and

C. Enter an Order for such other relief as may be appropriate.

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois

BY: /s/ David K.Igasaki
David K. Igasaki
Attorney for the Department

David K. Igasaki
Attorney for the Department of Professional Regulation
of the State of Illinois,
100 West Randolph Street, Suite 9-300
Chicago, Illinois 60601,
312/814-2737

STATE OF ILLINOIS
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois, Complainant
V. No. 93-4429-LEG
YAVARACE YOUNG
License No. 036-053991,Respondent

U.S.C.A.-7th Circuit
RECEIVED
CO MAY-7 1996
THOMAS F. STRUBBE
Clerk

ORDER

This matter coming to be heard on Department's Motion to Strike, and Respondent being_____present ___*X*___not present, the Department attorney *David Igasaki* being *X* present____not present, and answer *not* having been filed;

It is hereby ordered as follows:

1. That the *Answer* is to be filed by *February 27,1996*, *and that Discovery be completed by March 4,1996.*

2. *That the default is vacated.*

3. That the case is set for formal evidentiary on *March 11,*1996, at *1.00 a.m./p.m. at 100 W. Randolph Street- # 9-300, Chicago, Illinois 60601.*

It is further ordered:

Please be on notice that any written resolution of this matter must be executed prior to the date set for formal hearing, or the matter will proceed as scheduled, unless otherwise ordered.

MAIL CERTIFIED___*X*___REGULAR___*X*_____

FAX TO: *Yavarace Young* DATED: 2-15-96
2801 Brown Street
Alton, Illinois 62002

Initial SP
Dept. Atty: David K. Igasaki Administrative Law Judge

STATE OF ILLINOIS
SS:
COUNTY OF COOK

The undersigned, being duly sworn on oath, states that on the date hereafter set out, I mailed copies of the foregoing ORDER, by depositing it in the United States mailbox at 100 West Randolph, Chicago, Illinois 60601, and by sending it by certified mail at 100 West Randolph Street, Chicago, Illinois 60601, to all parties at the addresses listed.

/s/ Illegible Signature
AFFIANT

Subscribed and sworn to before me this
16th day of February 1996

"OFFICIAL SEAL"
Edgelle L. Pettigrew
Notary Public, State of Illinois
My Commission Expires 06/19/99

/s/ Edgelle L. Pettigrew
Edgelle L. Pettigrew
Notary Public

YAVARACE YOUNG, M.D.
Family Physician
2801 Brown Street
Alton, Illinois 62002
Telephone (618) 463-0059

U.S.C.A.-7th Circuit
RECEIVED
CO MAY-7 1996
THOMAS F. STRUBBE
Clerk

February 25,1996

Honorable Shari Dam, Administrative Law Judge
State of Illinois Department of Professional Regulation
State of Illinois Center
100 West Randolph, Suite 9-300
Chicago , Illinois 60601

Dear Honorable Shari Dam :

Your order dated February 15,1996 was received in my office on February 21,1996.This pleading is written in response to your order dated February 15,1996. The order stated

> " This matter coming to be heard on Department's Motion to Strike Respondent--------- and further ordered as follows:
> 1. that the Answer is to be filed by February 27,1996, and that Discovery be completed by March 4,1996.
> 2. that the default is vacated.
> 3. that the case is set for formal evidentiary on March 11,1996, at 1:00 p.m. at 100 W. Randolph street- # 9-300, Chicago, Illinois 60601."

On February 8,1996, I received "Motion to Strike Purported Answer" which was filed with State of Illinois, Department of Professional Regulation (IDPR) by Mr. David K. Igasaki, Attorney for IDPR. His motion seeks "A. Strike the respondent's letter/ purported Answer and let the default order of January 29,1996 stand, with the case referred to the Medical Disciplinary Board on the pleadings ;-------"

According to the Administrative Law Judge' s order dated February 15,1996, The default judgement on January 29,1996 is vacated. Therefore, hearing on the Department' s motion to strike is not necessary. In addition, the actions on the part of IDPR, and State officials demonstrate that IDPR and State officials have not changed their discriminatory intents; they perpetuate their intentional discriminatory practices against me; they have attempted to circumvent the power and the authority of the Federal Court while the discrimination lawsuit (Case number 95-655-PER) is still pending. As I am sure that you are aware of the fact that I have filed racial and gender discrimination lawsuit against State of Illinois, IDPR, State officials et al. since August 29,1995. Although, the federal court dismissed the case on December 6,1995, for lack of statement of claim for relief, the court allowed me to file the first amended complaint on or before February 6,1996. I have filed the first amended complaint-with the court according to the court instruction.

Intentionally discriminatory practices on the part of IDPR, the defendants, and State officials violates my fundamental rights guaranteed by Constitutioal law of the United States. Regardless of the court injunction or restraining order, it is the duty of every American citizen including IDPR and State officials to obey the Constitutional law which is the law of the nation. Their actions indicate that they have the attitude that they are above the law.

Although I respect your wisdom, ability and integrity, it is impossible for me to engage in any event or action or activity that interferes with the federal court proceedings. All discovery, legal proceedings should be done in the court of laws in order to protect the integrity of all evidences submitted; allow legal process to proceed in the federal court in an equitable manner and both defendants and plaintiff have equal opportunity of prove in court. I hope you understand my situation. To avoid the repetition, I respectfully request you to see the detailed information and the truths can be found in all of my documents which I have filed with the Federal court.

In the "Notice of Preliminary Hearing" dated November 3,1995, it was stated "Rules of Practices in Administrative Hearings in the Department of Professional Regulation and before Committee or Boards of said Department are available upon request." The request for a copy of "Rules of Practices in Administrative Hearings in IDPR" was made on January 8,1996. However, as of this date I have not received it. Once again, I would be grateful if you could arrange with IDPR for a copy of "Rules of Practices in Administrative Heaings in IDPR" to be sent to me at the above address. Furthermore, I respectfully request that you postpone the "Status of Hearing" or any action, activity to be held at a later date until such time that the final court decision is made by the federal court and I have the opportunity to review "The Rules of Practices in Administrative Hearings."

Your kind consideration in this matter is greatly appreciated and please respond at your earliest convenience.

Sincerely yours
/s/ Yavarace Young,M.D.
Yavarace Young,M.D.

Certified Number P 385-215-607

[SEAL]**Illinois Department of Professional Regulation**

Nikki M. Zollar **Jim Edgar**
Director **Governor**

March 4, 1996

U.S.C.A.-7th Circuit
RECEIVED
CO MAY-7 1996
THOMAS F. STRUBBE
Clerk

Via Certified & Regular Mail
Dr. Yavarace Young
2810 Brown Street
Alton, Illinois 62002

Dear Dr. Young:
Re: Dept. of Professional Regulation vs. Y. Young, M.D.

I am in receipt of your letter of February 25, 1996, in which you again request a continuance of the Department's case until your discrimination case is resolved.

Please be advised that unless you submit a certified copy of an order from the federal court staying the Department's case at this time, the formal evidentiary hearing scheduled for March 11, 1996 will go forward.

Should you have additional questions regarding Departmental procedures, I suggest that you consult an attorney.

I am enclosing a copy of the Department' s procedural rules per your request.

Sincerely,
/s/ Ms. Shari Dam
Ms. Shari Dam , Administrative Law Judge
Encl. cc: David Igasaki, Attorney for Department

320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0800
TDD 217/524-6735

James R. Thompson Center
100 West Randolph, Suite 9-300
Chicago, Illinois 60601
312/814-4500

STATE OF ILLINOIS
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois, Complainant
V. No. 93-4429
YAVARACE YOUNG
License No. 36-53991,Respondent

U.S.C.A.-7th Circuit
RECEIVED
CO MAY-7 1996
THOMAS F. STRUBBE
Clerk

Order for Status Post-Hearing/Transferred to Board on Pleadings or by Settlement Agreement

This cause coming to be heard for formal evidentiary hearing, the hearing having been completed on *3-11-96* and no final order having been entered by the Director to date; or
This cause coming to be heard for status, the case having been transfered to the Board (check one below): ___ on the pleadings on ____________,199___, or ____for approval of a settlement agreement on______,199___, and no order having been entered by the director to date;

It is hereby ordered that this matter be set for a hearing on status on *5-13,1996*, at 1.00 p.m. at the Department office located at 100 West Randorph, Room 9-172, for the purpose of ascertaining whether a final order has been entered. Respondent/petitioner need not appear unless further ordered by the Hearing Officer.

CERTIFIED *X* REGULAR *X*
MAIL TO: *Yavarace Young* DATED: 3-11-96
ADDRESS: *2801 Brown Street*
Alton, Illinois 62002

/s/ Shari Dam
Dept. ATTY.: David K. Igasaki
Shari Dam
Administrative Law Judge

YAVARACE YOUNG, M.D.
Family Physician
2801 Brown Street
Alton, Illinois 62002
Telephone (618) 463-0059

February 16,1994

Illinois Department of Professional Regulation
320 W. Washington, Third Floor
Springfield, Il 62786

Dear Sir,

This correspondence is initiated to request your assistance. On February 15, 1994, I was visited by two individuals who representd themselves to be officials of State of Illinois. One individual, Mr. Dave Walker stated that he was from Illinois State Police. The other individual did not identify himself. However, he stated that he represented Illinois Disciplinary Board. These individuals stated that the purpose of their visit was to conduct random investigation of physician to identify fraud and abuse in the medical system. They verbally requested several of my patient records. My immediate concerns are, (one) These individuals did not provide proper identification; (Two) There have been no complaint regarding my practice and these individuals confirmed this fact; (Three) Typically requests for patient records are received in a formal manner, ie. original formal written request; (Four) There was no evidence that these individuals were acting in an official capacity; (Five) Mr. Walker also requested copies of my Public Aid Billing, but it would seem that this information would be available to him through official channel.

The following information was provided by the individuals in question. Mr. Dave Walker stated that his address was 1100 East Port Plaza Drive, Collinsville, Illinois. Phone number: 346-3700. The other individual did not provide any information except that he represented Illinois Disciplinary Board.

In general these two individuals appeared very suspicious. Their actions were inconsistent with normal practice for acquiring medical information. They did not notify me in advance of their visits and I received no formal correspondence regarding their requests.

It should also be noted that these individuals have been contacted several of my patients in an effort to acquire information on my competency. This again is inconsistent with normal practice. They have created fear among my patients and undermining my credibility and reputation. If these individuals are genuine, I want to cooperate to the fullest extent. However, I presently have serious concern regarding their credibility. My concerns are compounded by the fact that I am a woman physician, and a minority. As such there is always the underlying possibility of discrimination.

This of course applies to my disadvantaged patients as well as myself.

Pleas look into this matter on my behalf and reply at your earliest convenient. Thank you.

Sincerely,

/s/ Yavarace Young, M.D.
Yavarace Young, M.D.

YAVARACE YOUNG, M.D.
Family Physician
2801 Brown Street
Alton, Illinois 62002
Telephone (618) 463-0059

February 16,1994

Mr. Roland W. Burris, Illinois Attorney General
1314 Neidringhaus
Granite City, Illinois 62040

Dear Sir,

This correspondence is initiated to request your assistance. On February 15, 1994, I was visited by two individuals who representd themselves to be officials of State of Illinois. One individual, Mr. Dave Walker stated that he was from Illinois State Police. The other individual did not identify himself. However, he stated that he represented Illinois Disciplinary Board. These individuals stated that the purpose of their visit was to conduct random investigation of physician to identify fraud and abuse in the medical system. They verbally requested several of my patient records. My immediate concerns are, (one) These individuals did not provide proper identification; (Two) There have been no complaint regarding my practice and these individuals confirmed this fact; (Three) Typically requests for patient records are received in a formal manner, ie. original formal written request; (Four) There was no evidence that these individuals were acting in an official capacity; (Five) Mr. Walker also requested copies of my Public Aid Billing, but it would seem that this information would be available to him through official channel.

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Sincerely,

/s/ Yavarace Young, M.D.
Yavarace Young, M.D.

YAVARACE YOUNG, M.D.
Family Physician
2801 Brown Street
Alton, Illinois 62002
Telephone (618) 463-0059

March 3,1994

Governor: Jim Edgar
207 Statehouse
Springfield, IL 62706

Dear Governor Jim Edgar:

I am writing this letter to request your assistance regarding the incident in my office on February 15, 1994. I have enclosed copies of all correspondence for you to review.

Your kind consideration and assistance in resolution of this matter is greatly appreciated.

Sincerely,

/s/ Yavarace Young, M.D.
Yavarace Young, M.D.

Enclosures:

YAVARACE YOUNG, M.D.
Family Physician
2801 Brown Street
Alton, Illinois 62002
Telephone (618) 463-0059

February 16,1994

Illinois Department of Professional Regulation
320 W. Washington, Third Floor
Springfield, Il 62786

Dear Sir,

This correspondence is initiated to request your assistance. On February 15, 1994, I was visited by two individuals who representd themselves to be officials of State of Illinois. One individual, Mr. Dave Walker stated that he was from Illinois State Police. The other individual did not identify himself. However, he stated that he represented Illinois Disciplinary Board. These individuals stated that the purpose of their visit was to conduct random investigation of physician to identify fraud and abuse in the medical system. They verbally requested several of my patient records. My immediate concerns are, (one) These individuals did not provide proper identification; (Two) There have been no complaint regarding my practice and these individuals confirmed this fact; (Three) Typically requests for patient records are received in a formal manner, ie. original formal written request; (Four) There was no evidence that these individuals were acting in an official capacity; (Five) Mr. Walker also requested copies of my Public Aid Billing, but it would seem that this information would be available to him through official channel.

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YAVARACE YOUNG, M.D.
Family Physician
2801 Brown Street
Alton, Illinois 62002
Telephone (618) 463-0059

This of course applies to my disadvantaged patients as well as myself.

Pleas look into this matter on my behalf and reply at your earliest convenient. Thank you.

Sincerely,

/s/ Yavarace Young, M.D.
Yavarace Young, M.D.

[SEAL]Illinois Department of Professional Regulation

Nikki M. Zollar
Director

Jim Edgar
Governor

February 24, 1994

Yavarce Young, M.D.
2801 Brown Street
Alton, IL 62002

Dear Dr. Young:

Please be advised that the Department has received your letter of February 16, 1994 in regard to questionable investigation procedures by Dave Walker and "a representative of the Illinois Disciplinary Board."

I have forwarded your letter to Bill Shlifka, Chief of Medical Investigations, for appropriate disposition. He will look into the matter and contact you.with his findings.

If you have any questions, please feel free to contact Mr. Shlifka in our Chicago office at 312/814-4560.

Sincerely,

/s/ Nikki M. Zollar
Nikki M. Zollar
Director

NMZ:sc
c: Bill Shlifka

320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0800
TDD 217/524-6735

State of Illinois Center
100 West Randolph, Suite 9-300
Chicago, Illinois 60601
312/814-4500

YAVARACE YOUNG, M.D.
Family Physician
2801 Brown Street
Alton, Illinois 62002
Telephone (618) 463-0059

March 1,1994

Mr. Nikki M. Zollar, Director
Illinois Department of Professional Regulation
Springfield, IL 62786

Dear Mr. Zollar:

Thank you very kindly for your letter dated February 24, 1994.

On February 25, 1994. The two individuals in question came to my office again with various requests, threats and intimidation. As in the previous visit, I received no prior notification. This is very disruptive to my practice.

At this point I am very confused. I have done nothing wrong that I am aware of, and I have not been advised-by Disciplinary Board that I have committed any offense. The two individuals in question told me verbally that they conducted randan investigation of physicians. This kind of practice is unfamiliar to me.

Being a woman in medical professional places me in a minority category. This is compounded by the fact that I am a foreign descent. In as much as I have not been provided with any specific reason for this present action of Displinary Board. I am concern that there is an element of discrimination in all of this.

In order that I can develop a better understanding of what is presently transpiring, please provide me the following information in accordance with the freedom of information act:

A. Any documented evidence that supporting the present action of Disciplinary Board.

B. Copies of any complaint that have been received regarding my medical service.

C. Statistics regarding investigations of Disciplinary Board; i.e. action.against individual of foreign descent or foreign national versus action relating to American born Caucasians.

D. Copy of Rules , Regulation and Procedure of Illinois Department of Professional Regulation and Disciplinary Board..

Your assistance in providing the above information is most appreciated.

Sincerely,

/s/ Yavarace Young, M.D.
Yavarace Young, M.D.

YAVARACE YOUNG, M.D.
Family Physician
2801 Brown Street
Alton, Illinois 62002
Telephone (618) 463-0059

March 2,1994

Mr. Nikki M. Zollar
Director Illinois Dept. of Professional Regulation
320 West Washington, 3rd. Floor.
Springfield, IL 62786

Dear Mr. Zollar:

This will acknowledge the receipt of telephone message from Mr. Shlifka on March 2. 1994.

As noted in my previous correspondence, it is my desire to conduct this matter in formal manner. Please address all future communication in written form. You can be assured that I will respond in a timely manner.

Your cooperation is most appreciated.

Sincerely,

/s/ Yavarace Young, M.D.
Yavarace Young, M.D.

cc: Mr. Bill Shlifka, Chief of Medical Investigations

[SEAL]**Illinois Department of Professional Regulation**

Nikki M. Zollar **Jim Edgar**
Director **Governor**

March 4, 1994

Yavarace Young, M.D.
2801 Brown Street
Altoni IL 62002

Re: Case No. 93-4429

Dear Dr. Young:

Director Nikki M. Zollar has asked that I respond to your letter of February 16, 1994, in which you make various allegations about the conduct of one of the Department's Health Services Investigators, Steve Wagy, and an Illinois State Police Special Agent, Dave Walker, when Mr. Wagy and Mr. Walker visited your office on February 15, 1994.

Please be advised that I have reviewed the case file and have spoken with Mr. Wagy concerning the charges you have made.

Mr. Wagy stated that he and Special Agent Walker identified themselves to you and a gentleman who identified himself as your husband, displayed their credentials, and left their business cards. It appears that the gentleman who identified himself as your husband was verbally abusive and completely uncooperative. Both Mr. Wagy and Special Agent Walker have assured me that they conducted themselves professionally. After speaking with them and reviewing the case file reports, I would have to concur.

I would like to make you aware of the fact that on March 2, 1994, I telephoned your office, identified myself, and asked to speak with you. A gentleman who refused to identify himself told me that I could not talk to you.

You also indicate that you believe your credibility and reputation with your patients is being undermined and that requests for patient records should be made in a formal manner. The case file contains properly executed authorizations for release of medical records and information from four of your patients who completed the forms willingly and with full knowledge that their records would be turned over to the Department of Professional Regulation for review. The Department is under no obligation to request these records in a more formal manner.

I assure vou that this matter is being investigated professionally.Your cooperation will assist the Medical Disciplinary Board in reaching a just disposition.

If you have any questions, please feel free to contact me in writing at our Chicago office or by telephone at (312) 814-5304.

Sincerely,

/s/ William B. Shlifka
William B. Shlifka
Chief of Medical Investigations

WBS:ml
cc: Nikki M. Zollar
Director

[SEAL]Illinois Department of Professional Regulation

Nikki M. Zollar **Jim Edgar**
Director **Governor**

March 10, 1994

Dr. Yavarace Young
2801 Brown Street
Alton, IL 62202

RE: Release of medical records

Dear Dr. Young:

Please take notice that you are hereby formally requested to submit the following documents to the Department: A copy of the entire medical records for the individual patients listed in the attached signed authorization forms.

These documents are being request for the purpose of an official investigation. Please submit the request materials within ten (10) days to:

Department of Professional Regulation
Attn: Investigator Steven Wagy
Medical Investigations
320 West Washington Street
Springfield, Illinois 62786.

Please be aware that your failure to provide the above information within your possession or control, or to request a hearing to determine the legality of the request before the Medical Disciplinary Board, may result in sanctions pursuant to Section 22 (A) (38) of the Medical Practice Act up to and including revocation.

Sincerely,

/s/ Robert J. Schafer
Robert J. Schafer
Medical Coordinator

DP:kds

---

320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0800
TDD 217/524-6735

State of Illinois Center
100 West Randolph, Suite 9-300
Chicago, Illinois 60601
312/814-4500

YAVARACE YOUNG, M.D.
Family Physician
2801 Brown Street
Alton, Illinois 62002
Telephone (618) 463-0059

March 21,1994

Dr. Robert J. Schafer, Medical Coordinator
320 West Washington, 3rd Floor
Springfield, IL 62786

RE: RELEASE OF MEDICAL REODRDS

Dear Dr. Schafer:

Your letter of March 10,1994 was received in my office March 14, 1994.

Enclosed, please find the copies of medical record you requested and the letters of revocation from those patients who do not want their medical records to be released.

Thank you for your kind assistance.

Sincerely,

/s/ Yavarace Young, M.D.
Yavarace Young, M.D.

CUSTOMER COPY

POST OFFICE TO ADDRESSEE [SEAL]EXPRESS MAIL
EMS
EF604280903US

ORIGIN (POSTAL USE ONLY)
International Shipment Only
P.O.Zip 62002
Day of Delivery [X]Next [ ]Second
[ ]Flat rate envelope
Postage $ 9.95
[ ]Business Papers
Date In 3-22-94 Mo. Day Yr.
[X]12 Noon [ ]3 PM
[ ]Merchandise
Time In 9:00 []AM []PM
Military []2nd Day []3rd Day
Return Receipt $ 1.00
Customs forms and commercial invoice may be required. See Pub273 and international manual.
Weight __lb. 7 oz.
Int'l Alpha Country Code ______
COD ______
Total Postage & Fees $10.95
No Delivery []Weekend []Holiday
Acceptance Clerk Initials____

CUSTOMER USE ONLY
Method of Payment: ______
Express Mail
Corporate Acct. No.____

[ ]WAIVER OF SIGNATURE (domestic only).I wish delivery to be made without obtaining the signature of the addressee or the addressee's agent (if in the judgement of the delivery employee, the article can be left in a secure location) and I authorize the delivery employee to sign that the shipment was delivered and understand that the signature of the deliveryemployee will constitute valid proof of delivery.

No Delivery
[]Weekend []Holiday

____
Customer Signature

Federal Agency Acct. No. ____
Postal Service Acct. No. ____

U.S.C.A. - 7th Circuit
RECEIVED
CO MAY -7 1996
THOMAS F. STRUBEE
CLERK

See reverse side for the service guarantee and limits on the insurance coverage

FROM: please print Phone_____	TO: please print Phone __
YAVARACE YOUNG, M.D.	**Illinois Department of**
2801 BROWN STREET	**Professional Regulation**
ALTON, ILLINOIS 62002	**ATTN: Steven Wagy,**
	Dr. Schafer
	320 West Washington St.,
	3rd. Floor
	Springfield, Illinois 62786

FOR PICKUP OR TRACKING CALL 1-800-222-1811

SENDER:

- complete item 1 and/or 2 for additional services.
- complete item 3, and 4a & b.
- print your name and address on the reverse of this form so that we can return the card to you.
- attach this form to front of the mailpiece, or on the back if space does not permit.
- write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. []Addressee's Address
2. []Restricted Delivery

Consult postmaster for fee.

3. Article addressed to:

Illinois Department of Professional Regulatio
ATTN: Steven Wagy,
Dr. Schafer

320 West Washington Street, 3rd. Floor
Springfield, Il 62786

4a. Article Number

____

4b. Service Type

[ ]Registered [ ]Insured
[ ]Certified [ ]COD
[X]Express Mail [ ]Return Receipt for Merchandise

7. Date of Delivery
3-23-94

5. Signature(Addressee)

____

8. Addressee's Address
(Only if requested and fee is paid)

6. Signature (Agent)

[SEAL]
RECEIVED
MAR 23 1994
/S/ M. SOMERFIELD
M. SOMERFIELD

PS Form 3811, December 1991 U.S. GPO: 1992-323-402
DOMESTIC RETURN RECEIPT

Is your RETURN ADDRESS completed on the reverse side?
Thank you for using Return Receipt Service.

[SEAL]
ROLAND W. BURRIS
Attorney General
State of Illinois

April 14, 1994

Yavarace Young, M.D.
2801 Brown Street
Alton, Illinois 62002

Re: Case no. GC-94-2301
Dear Dr. Young:

Recently you contacted the Granite City Regional Office of the Illinois Attorney General regarding two individuals who represented themselves to be officials of the State of Illinois and visited your office in February, 1994. Please be advised that the Illinois Attorney Generalls Office would not have any direct knowledge of any type of investigation being conducted by these individuals. However, in that the Illinois Attorney General's Office serves as legal counsel for all of the state boards, agencies, and commissions in the state of Illinois, it would be a conflict of interest for us to intervene in this matter on your behalf in the event administrative or other legal procedings were to result from this matter.

I would strongly suggest that you contact a private attorney to discuss your concerns and determine what your legal remedies, if any, are.

Very truly yours,
ROLAND W. BURRIS
Attorney General

/s/ Dennis J. Orsey
Dennis J. Orsey
Assistant Attorney General, Regional Director
DJO:jst

1314 Niedringhaus Avenue, Granite City, Illinois 62040 (618) 877-0404 - FAX: (618) 877-9801

[SEAL]
STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
CHICAGO 60601

Jim Edgar
Governor

April 18, 1994

Dr. Yavarace Young
2801 Brown Street
Alton, Illinois 62002

Dear Dr. Young:

Thank you for your March 3, 1994 letter to Governor Edgar. The Governor has asked me to respond on his behalf.

We are unable to comment on the substance of pending investigations, such as the matter referred to in your letter. Please be assured, however, that the investigation is being handled in accordance with all applicable laws and regulations.

Sincerely,

/s/ Richard G. Agin
Richard G. Agin
Legal Counsel

RGA/glr

Printed on Recycled Paper

```
                                                              # 2
PEREINQ  Lic No. 036 053991  SSN 266-33-5590      Date 07/09/93
                                                   Time 14:44:52
Name/Address          Birth Dt: Unknown          Issued: 12/09/76
Young MD               Status: Renew 05/14/93               Rtm:
Yavarace              Printed:  06/21/90         Expires:07/31/93
2801 Brown Street     Lic By:       Exam:              State
Alton     IL  62002    ICSA:  Yes        Cont ED: Not complete
County: 060                       Last Inspection
                                                      Financial
Miscellaneous            Applied   Validate  Batch  Type        Fee
                        06/21/90   06/15/90   531   V $      300.00
                        06/21/90   06/15/90   531   9 $       15.00
                        07/31/87   07/29/87   521   9 $       15.00
License Specialty:
Enter   Y   For additional Inquiry Information
        Related License:              Financial History:
         DBA Names:               Education/Exam:        Press Enter
             Press PF2 Key For Docket Inquiry
             Press PF3 Key To Return To Main Inquiry Screen
             Press PF4 Key For Controlled Substance Inquiry
```

IND. PRACTITIONER # 3

Walker
-Mabel Public Aid
312-793-3811

PROVIDER ANALYSIS
(SYSTEM PERFORMANCE REVIEW)

DATE EXCEPTED/REFERRED: 2/2/93
PROVIDER: Young, Yavarace DATE ASSIGNED: 2/26/93
PROVIDER NUMBER: 036053991 DATE INITIATED: 3/31/93
Office Address: 2801 Brown St. DATE COMPLETED: 5/26/93
Alton, IL 62002 NARRATIVE REVIEW DATE:
TOTAL $ PD QTR:

REPORT/CLASS GROUP: 10:31
RANK (TOTAL/CLASS): 7/1 Wt. 10,870 1. $10,483
SOURCE: 12/92 SPR Ref. N/A 2. $15,544

# RECIP C.D.: 10 3. $12,122
PREPARED BY: Marti Dove 4. $28,626

NARRATIVE REVIEW COMMITTEE ACTION:

REFERRAL ISSUE: N/A

COUNTY: Madison (065) ENROLLMENT DATE: 1/26/84
SPECIALTY: Family Practice
OFFICE ADDRESS: Sole provider at this address.
PAYEE ADDRESS: Same as above.
BMQA HISTORY: Central file contains a 6/91 SPR with a decision to peer review. Dr. Young is absent from queues and no further information is available. A 12/88 SPR ended with a 1:1 review decision which resulted in a LTP on comp codes. A 9/86 SPR also resulted in a LTP regarding comp codes.

HOSPITAL AFFILIATION: St. Anthony's Health Center
370661234001 Outpt. 46%

PRIMARY INTERRELATIONSHIPS: Dr. Larry Reed (R) 23%

PRIMARY REFERRALS: Super X Drugs 48%

RECENTLY DECEASED RECIPIENT REPORT:
0 @15 days 0 @30 days 0 @60 days 0 @120 days 0 @180 days

SPR REVIEW:

Report Item	This Prov.	Class	Avg.
Total dollars pd.	$16,694	$2,224	7x
Total recipients served	277	60	5x
Avg. pmt. per recip.	$ 60.84	$46.31	1.3x
Avg. # office visits per recip.	2.18	0.91	2x
# 90020 procedures	96	4	24x
# 90070 procedures	275	7	39x

American Medical Association [SEAL]

Physicians dedicated to the health of America

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Physicians' Current Procedural Terminology

Celeste G. Kirschner, MHSA,
Nancy K. Edwards, MA,
Mary R. McNamara O'Heron, RRA,
Carrie L. Ryan, RRA,
Judy A. Coy, RN, MGS
Gina Leoni, RRA
Ann Pollack, MBA
Dianne M. Willard, RRA, MBA

MEDICINE

Procedures

(90000-90080 have been deleted. To report, see 99201-99215)

(90100-90170 have been deleted. To report, see 99341-99353)
(90200-90220 have been deleted. To report, see 99221-99223)
(90225 has been deleted. To report, use 99431)
(90240-90280 have been deleted. To report, see 99231-99233)
(90282 has been deleted. To report, see 99433)
(90292 has been deleted. To report, see 99238)
(90300-90370 have been deleted. To report, see 99301-99313)
(90400-90470 have been deleted. To report, see 99321-99333)
(90500-90580 have been deleted. To report, see 99281-99285)
(90590 has been deleted. To report, see 99288)
(90600-90630 have been deleted. To report, see 99241-99255)
(90640-90643 have been deleted. To report, see 99241-99245 or 99261-99263)
(90650-90654 have been deleted. To report, see 99271-99275)
(90699 has been deleted. To report, use 99499)

Immunization Injections

(For allergy testing, see 95000 et seq)
(For skin testing of bacterial, viral, fungal extracts,see 86455-86585)
(For therapeutic or diagnostic injections, see 90782-90799)

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Gina Leoni, RRA,
Karen E. Neary, BS,
Karen R. Scholten,
Dianne M. Willard, RRA, MBA
Robin C. Burkett, BA
Nancy K. Edwards, MA
Mary R. McNamara O'Heron, RRA
Ann Pollack, MBA
Maurine G. Spillman, MPH

MEDICINE

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